

Wednesday, January 23, 2019

HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
CONFIDENTIALITY REVIEW

GOLKOW LITIGATION SERVICES
877.370.3377 ph | fax 917.591.5672
deps@golkow.com

	Page 2	Page 4
1	APPEARANCES:	1
2	CARELLA, BYRNE, CECCHI, OLSTEIN,	2
3	BRODY & AGNELLO, P.C.	3
4	BY: ZACHARY BOWER, ESQUIRE	4
5	zbower@carellabyrne.com	5
6	MICHAEL INNES, ESQUIRE	6
7	minnes@carellabyrne.com	7
8	5 Becker Farm Road	8
9	Roseland, New Jersey 07068-1739	9
10	(973) 994-1700	10
11	Counsel for Plaintiffs	11
12	JONES DAY	12
13	BY: TINA TABACCHI, ESQUIRE	13
14	ttabacchi@jonesday.com	14
15	SCOTT SELMER, ESQUIRE	15
16	selmer@jonesday.com	16
17	JASON ZHOU, ESQUIRE	17
18	jzhou@jonesday.com	18
19	(Attending telephonically)	19
20	77 West Wacker	20
21	Chicago, Illinois 60601-1692	21
22	312-782-1692	22
23	Counsel for Walmart	23
24	WRIGHT, LINDSEY & JENNINGS, LLP	24
25	BY: CALEY B. VO, ESQUIRE	25
	cvo@wlj.com	
	3333 Pinnacle Hills Parkway	
	suite 510	
	Rogers, Arkansas 72758-8498	
	(479) 986-0888	
	Counsel for McKesson	
	REED SMITH, LLP	
	(appearing telephonically)	
	BY: MARY BALASTER, ESQUIRE	
	mbalaster@reedsmit.com	
	811 Main Street	
	Suite 1700	
	Houston, Texas 77002-6110	
	(713) 469-3800	
	Counsel for AmerisourceBergen	
	Page 3	Page 5
1	ARNOLD & PORTER KAYE SCHOLER, LLP	1
2	(appearing telephonically)	2
3	BY: KAREN RIGBERG, ESQUIRE	3
4	Karen.Rigberg@arnoldporter.com	4
5	777 South Figueroa Street	5
6	44th Floor	6
7	Los Angeles, California 90017-5844	7
8	(213) 243-4000	8
9	Counsel for Endo Health Solutions	9
10	Inc.; Endo Pharmaceuticals Inc.; Par	10
11	Pharmaceuticals, Inc.; Par	11
12	Pharmaceutical Companies, Inc.	12
13	formerly known as Par Pharmaceutical	13
14	Holdings, Inc.	14
15	BARBER LAW FIRM	15
16	BY: J. CARTER FAIRLEY, ESQUIRE	16
17	cfairley@barberlawfirm.com	17
18	425 West Capitol Avenue	18
19	Suite 3400	19
20	Little Rock, Arkansas 72201	20
21	(501) 707-6182	21
22	Counsel for Cardinal Health, Inc.	22
23	ALSO PRESENT:	23
24	Jennifer B. Bechet	24
25	Senior Associate Counsel	25
	Walmart, Inc.	
18	THE VIDEOGRAPHER:	18
19	Chris Ritona	19
20	Golkow Litigation Services	20
21	— — —	21
22		22
23		23
24		24
25		25
	INDEX	
	APPEARANCES	2
	PROCEEDINGS	7
	EXAMINATION OF SUSANNE HILAND:	
	DIRECT EXAMINATION	9
	BY MR. INNES	
	DEPOSITION EXHIBITS	
	SUSANNE HILAND	
	January 23, 2019	
	NUMBER	
	DESCRIPTION	
	PAGE	
	Walmart 12-4-07 email from Jimmie	81
	Hiland 1 Sherl to Mike Mullin,	
	Subj: DEA Scheduled Visit	
	of DC 6045 120507,	
	WMT MDL 000054021-54022	
	Walmart 3-10-10 email chain. Subj:	114
	Hiland 2 Re: NABP VAWD Mtg	
	WMT MDL 000016173-16174	
	Walmart 10-4-11 email from Susanne	132
	Hiland 3 Hiland. Subj: Significant	
	Loss Guidelines -	
	Confidential - Do Not	
	Forward.	
	WMT MDL 000040775-40779	
	Walmart 9-27-12 email from George	136
	Hiland 4 Chapman. Subj: CII	
	utilization review.	
	WMT MDL 000012194	
	Walmart August 2014 email chain.	164
	Hiland 5 Subj: FW: Hydrocodone to	
	CII meeting 8.25.14.	
	WMT MDL 000047417-47419.	
	Walmart 8-17-12 email from Susanne	187
	Hiland 6 Hiland. Subj: Prescription	
	Drug Abuse and Diversion -	
	Senator Harkin.	
	WMT MDL 000049685-49687	
	Walmart 12-13-16 email from JoAnn	259
	Hiland 7 Stevens. Subj: H&W	
	Compliance Oversight	
	Meeting Materials -	
	December 14-2016	
	2:00-4:00pm, Soderquist	
	Hall Conference Room.	
	WMT MDL 000046442-46513	

		Page 6		Page 8
1	Walmart Hiland 8	October 2017 email chain. Subj: Press Release from McKesson.	274	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
2		WMT_MDL_000002203-2205		MR. FAIRLEY: Carter Fairley on behalf of Cardinal Health.
3	Walmart Hiland 9	May 2015 email chain. Subj: "4th Thursday" H&W Compliance Focus Areas deck.	279	MR. VO: Caley Vo, Wright, Lindsey & Jennings on behalf of McKesson.
4		WMT_MDL_000049545-49566		MS. BECHET: Jennifer Bechet, senior associate counsel, Walmart, Incorporated.
5	Walmart Hiland 10	December 2017 email chain. Subj: RE Industry Letter.	289	MR. ELMER: Scott Elmer from Jones Day on behalf of Walmart.
6		WMT_MDL_000032595-32599		MS. TABACCHI: Tina Tabacchi, Jones Day, on behalf of Walmart and the witness.
7		-----		THE VIDEOGRAPHER: And will the participants on the conference call also please identify themselves.
8				MS. RIGBERG: Karen Rigberg from Arnold & Porter on behalf of the Endo and Par defendants.
9				MS. BALASTER: And Mary Balaster with Reed Smith on behalf of AmerisourceBergen Corporation.
10				THE COURT REPORTER: Anyone else on the phone?
11				THE VIDEOGRAPHER: The court
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				
		Page 7		Page 9
1		PROCEEDINGS		1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
2		(January 23, 2019 at 8:25 a.m.)		reporter today is Debbie Dibble and she will now please swear in the witness.
3		THE VIDEOGRAPHER: We are now		SUSANNE HILAND,
4		on the record. My name is Chris		having first been duly sworn, was examined
5		Ritona. I am videographer for Golkow		and testified as follows:
6		Litigation Services. Today's date is		DIRECT EXAMINATION
7		January 23, 2019. The time is		BY MR. INNES:
8		approximately 8:25 a.m. This video		Q. Good morning, Ms. Hiland. My
9		deposition is being held in Rogers,		name is Michael Innes. We met yesterday,
10		Arkansas at Mitchell Williams, 4206		where you sat as a corporate designee for
11		South JB Hunt Drive, Suite 200, in the		Walmart and provided testimony.
12		matter of National Prescription Opioid		Some of the questions I'm going
13		Litigation MDL No. 2804, Case		to ask you up front might sound redundant as
14		No. 17-MD-2804 in the United States		to the questions you were asked yesterday,
15		District Court Northern District of		but I want to have a complete record. So
16		Ohio, Eastern Division. The deponent		I'll preface all of my questions with -- with
17		today is Susanne Hiland. Will all		that.
18		counsel please identify themselves for		You do understand you're under
19		the record.		oath today; right?
20		MR. INNES: Good morning.		A. Yes.
21		Michael Innes of Carella, Byrne for		Q. And you might have to speak up
22		plaintiffs in the MDL.		for the folks to hear on the phone. I know
23		MR. BOWER: Good morning. Zach		yesterday there were some complaints after
24		Bower, Carella, Byrne, for the		that it was difficult to hear all of us in
25		plaintiffs in the MDL.		

Page 10	Page 12
<p>1 the room. So I'll try to keep my voice up as 2 well.</p> <p>3 Have you ever testified under 4 oath before?</p> <p>5 A. Yes.</p> <p>6 Q. And when was that?</p> <p>7 A. Yesterday and in depositions --</p> <p>8 previous depositions related to my employment 9 with Walmart.</p> <p>10 Q. Okay. And you understand that 11 even though you're in a law office today, 12 testimony you give under oath has the same 13 force and effect and penalties of perjury as 14 though you are testifying in a court of law?</p> <p>15 A. Yes.</p> <p>16 Q. If I ask you a question and you 17 provide an answer, I'm going to assume that 18 you understood my question. Is that fair?</p> <p>19 A. Yes.</p> <p>20 Q. Is there anything that would 21 prevent you from thinking clearly today?</p> <p>22 A. No.</p> <p>23 Q. Is there anything that would 24 prevent you from testifying truthfully today?</p> <p>25 A. No.</p>	<p>1 let's talk about the -- your individual 2 deposition. There were two where we 3 separated that information out.</p> <p>4 Q. And when did those occur?</p> <p>5 A. One was last Thursday 6 afternoon, and the other one was Monday of 7 this week.</p> <p>8 Q. The meeting on Thursday 9 afternoon, how long did that last?</p> <p>10 A. That was about two hours.</p> <p>11 Q. And who was present at that 12 meeting?</p> <p>13 A. Walmart counsel and Jones Day.</p> <p>14 Q. And by "Walmart counsel," you 15 mean Walmart in-house counsel?</p> <p>16 A. Yes.</p> <p>17 Q. How many -- how many Walmart 18 in-house counsel were present?</p> <p>19 A. Two that I recall.</p> <p>20 Q. Okay. And do you recall their 21 names?</p> <p>22 A. One was Jennifer, present here. 23 And I don't recall the other attorney that 24 was there.</p> <p>25 Q. That's okay.</p>
<p>1 Q. What did you do today -- or 2 what did you do to prepare for your 3 deposition today?</p> <p>4 A. I met with attorneys.</p> <p>5 Q. And how many times did you meet 6 with your attorneys?</p> <p>7 A. So specific to prepare for this 8 deposition, twice, that I recall.</p> <p>9 Q. So you met with your attorneys. 10 And the attorneys -- strike that.</p> <p>11 Those two meetings were 12 specific to the testimony you were going to 13 give as a fact witness today?</p> <p>14 A. They were for this deposition.</p> <p>15 Q. Okay. And during those 16 meetings, did -- were they -- did you discuss 17 anything related to your -- strike that.</p> <p>18 Did those meetings in any way 19 touch upon the testimony that you gave as a 20 corporate designee yesterday?</p> <p>21 A. I think with the preparation 22 I've done, it's a little bit difficult for me 23 to separate out some of the preparation. But 24 specific to my individual deposition, the two 25 times that I remember we said okay, well now</p>	<p>1 Sometimes we're faceless in 2 this profession.</p> <p>3 The meeting on Monday, how long 4 did that go for?</p> <p>5 A. That was about an hour.</p> <p>6 Q. Okay. And who was present at 7 that meeting?</p> <p>8 A. It was the same as Thursday, 9 that I recall.</p> <p>10 Q. And so in those two meetings, 11 no one other than Walmart in-house counsel 12 and the attorneys from Jones Day were 13 present?</p> <p>14 A. Correct.</p> <p>15 Q. In either of those meetings, 16 did you review documents?</p> <p>17 A. Not specifically that I recall 18 for this. Not that I recall specific to this 19 deposition.</p> <p>20 Some of the documents that I -- 21 that I reviewed for the corporate deposition 22 were -- were -- involved me. And so the 23 things that I had personal knowledge of, we 24 didn't review in that preparation.</p> <p>25 Q. Okay. Understood.</p>

<p style="text-align: right;">Page 14</p> <p>1 But you did review documents in 2 preparation for your testimony in your 3 personal capacity?</p> <p>4 MS. TABACCHI: Object to the 5 form.</p> <p>6 THE WITNESS: No. In the 7 preparation for the corporate 8 deposition, there were documents that 9 I reviewed that were from my personal 10 knowledge and my work history.</p> <p>11 What I don't recall is pulling 12 out additional documents that weren't 13 part of the overall preparation for my 14 corporate deposition.</p> <p>15 Q. (BY MR. INNES) I think I'm 16 getting a better understanding. You reviewed 17 documents for your 30(b)(6) testimony?</p> <p>18 A. Correct.</p> <p>19 Q. But there's no documents 20 outside of those documents that you used in 21 preparation for your fact preparation; is 22 that right?</p> <p>23 A. Correct.</p> <p>24 Q. And by "fact preparation," I 25 mean individual.</p>	<p style="text-align: right;">Page 16</p> <p>1 MS. TABACCHI: Object to the 2 form. That's just kind of a broad 3 question, Mike.</p> <p>4 MR. INNES: Yeah. Sorry.</p> <p>5 Q. (BY MR. INNES) In preparation 6 for today, did you speak with any 7 representative of any defendant in this 8 litigation?</p> <p>9 A. No.</p> <p>10 Q. Other than the counsel that 11 you've identified in those two meetings, did 12 you speak with anyone else prior to your 13 deposition today regarding the testimony 14 you're about to provide?</p> <p>15 A. Not in my individual capacity. 16 There were -- there were other Walmart 17 attorneys that were present for some of the 18 other preparation that I did. But there 19 was -- there was nothing outside of 20 preparation with counsel.</p> <p>21 Q. So no conversations in 22 preparation for today with persons other than 23 counsel?</p> <p>24 A. For today, correct.</p> <p>25 Q. Okay.</p>
<p style="text-align: right;">Page 15</p> <p>1 A. Individually, yes.</p> <p>2 Q. In preparation for today's 3 testimony, did you review any deposition 4 transcripts in this case?</p> <p>5 A. Not for this individual. I did 6 review depositions for the corporate 7 deposition that I gave, not in my individual 8 capacity.</p> <p>9 Q. Thank you for giving me that 10 precise answer. I appreciate that.</p> <p>11 Did you review any court 12 documents in preparation for today?</p> <p>13 A. It would be the same answer. 14 For my corporate deposition I did. Not in 15 the capacity of this individual deposition.</p> <p>16 Q. In preparation for today, did 17 you look at any of your own personal files?</p> <p>18 A. No.</p> <p>19 Q. Did you look at any documents 20 outside the presence of counsel in 21 preparation for today?</p> <p>22 A. No.</p> <p>23 Q. Prior to today, did you speak 24 with any representative of any other 25 defendant in this litigation?</p>	<p style="text-align: right;">Page 17</p> <p>1 A. For today, correct.</p> <p>2 Q. So you didn't speak to a 3 colleague about the testimony you're about to 4 give?</p> <p>5 A. No.</p> <p>6 Q. You didn't speak to a friend?</p> <p>7 A. No.</p> <p>8 Q. You didn't speak to a former 9 colleague?</p> <p>10 A. No.</p> <p>11 So the reason I'm hesitating is 12 I'm trying to sort out ... 13 I did, for the corporate 14 deposition, interview current and former 15 associates, but that was for the corporate, 16 not for my individual. And all of those 17 interviews were in the presence of counsel.</p> <p>18 Q. Are you familiar with the term 19 "Just Culture"?</p> <p>20 A. Yes.</p> <p>21 Q. What is your understanding of 22 the term "Just Culture"?</p> <p>23 A. Just Culture is an approach 24 that looks at ways to improve processes 25 without punishing someone who might have been</p>

<p style="text-align: right;">Page 18</p> <p>1 involved in an erring process or procedure. 2 So it encourages transparency for the purpose 3 of continuous quality improvement. 4 Q. When did you first become 5 familiar with the Just Culture approach, as 6 you understand it today? 7 A. I think the first time I heard 8 Just Culture was sometime in the 2010, 2011 9 time period, when I was working in a role 10 that -- I was working collaboratively with 11 another compliance partner on our quality 12 improvement, quality assurance program. 13 Q. And what was your title at the 14 time -- the time period you just described, 15 the 2010 to 2011 time period? 16 A. Senior director for regulatory 17 affairs. 18 Q. Who first brought the -- who 19 introduced you to the term "Just Culture"? 20 A. Paula Barton was senior 21 director for operations compliance. 22 Q. Did you see any -- during that 23 time period, did you receive any materials 24 related to this Just Culture approach? 25 MS. TABACCHI: Object to the</p>	<p style="text-align: right;">Page 20</p> <p>1 at Walmart also receive copies of the 2 David Marx book? 3 MS. TABACCHI: Object to the 4 form. 5 Q. (BY MR. INNES) To your 6 knowledge? 7 A. Yes. We've used that book over 8 time as a -- as part of our quality 9 improvement program. 10 Q. Following -- I believe you 11 testified that you actually -- you did read 12 the David Marx book after it was given to you 13 by Ms. Barton; is that right? 14 A. Yes. 15 Q. And did you have conversations 16 with Walmart employees regarding Mr. Marx's 17 book after you read it? 18 A. Yes. 19 Q. And in what -- what was the 20 nature of those conversations? 21 A. We were looking at making 22 changes to our then quality assurance program 23 that would incorporate tenets of 24 Just Culture. 25 Q. And can you expound upon what</p>
<p style="text-align: right;">Page 19</p> <p>1 form. 2 THE WITNESS: Yes. 3 Q. (BY MR. INNES) Can you 4 describe those materials? 5 A. There's a book by David Marx, 6 who's a Just Culture expert, that was 7 provided to me. 8 Q. And who provided you with the 9 book by Mr. Marx? 10 A. Paula Barton. 11 Q. Did you read that book? 12 A. Yes. 13 Q. Did Ms. Barton ask you to read 14 that book? 15 A. She gave it to me to read. As 16 we were -- it was an interest that I had, so 17 she provided it and I read it. 18 Q. And did Ms. Barton provide that 19 to you in her capacity as a Walmart employee? 20 Or as a gift from a friend? 21 MS. TABACCHI: Object to the 22 form. 23 THE WITNESS: It was a Walmart 24 interaction. 25 Q. (BY MR. INNES) Did other folks</p>	<p style="text-align: right;">Page 21</p> <p>1 the quality assurance program was at that 2 time? 3 A. Yes. Quality assurance at 4 Walmart related to the process by which our 5 pharmacists fill prescriptions to ensure that 6 the prescription is filled accurately. 7 Q. Is it fair to say quality 8 assurance at that time was limited to 9 accurate dispensing? 10 A. Yes. 11 Q. Quality assurance had -- at 12 that period of time had no other meaning to 13 you at Walmart? 14 MS. TABACCHI: Object -- 15 Q. (BY MR. INNES) Other than 16 quality, accuracy of dispensing? 17 MS. TABACCHI: Object to the 18 form. 19 THE WITNESS: The way that we 20 looked at quality assurance was from 21 an operating procedure for the 22 accurate dispensing of prescriptions. 23 Q. (BY MR. INNES) Can you 24 describe to me how Just Culture and 25 Mr. Marx's text were applied to the accurate</p>

<p>1 dispensing by Walmart?</p> <p>2 MS. TABACCHI: Object to the</p> <p>3 form.</p> <p>4 THE WITNESS: Yes. The quality</p> <p>5 assurance program in place for nearly</p> <p>6 20 years at Walmart was a very</p> <p>7 punitive program so that as</p> <p>8 prescription processing issues were</p> <p>9 raised, our pharmacists were held</p> <p>10 accountable for those -- for raising</p> <p>11 their hand and saying that they had</p> <p>12 had a dispensing error, or they had</p> <p>13 reported some process issue in</p> <p>14 their -- in filling prescriptions.</p> <p>15 And so we were looking at</p> <p>16 Just Culture alongside a program --</p> <p>17 Just Culture came out of the Institute</p> <p>18 of Medicine "To Err is Human" report</p> <p>19 from the late 1990s. And we were</p> <p>20 looking at a way to bring additional</p> <p>21 transparency to our accuracy program</p> <p>22 so that -- so that we could improve</p> <p>23 the processes and have additional</p> <p>24 visibility, not punish our pharmacist</p> <p>25 for raising their hand and reporting</p>	<p>Page 22</p> <p>1 category of standard operating procedures</p> <p>2 through the filling process that we would</p> <p>3 track if the prescription wasn't dispensed</p> <p>4 exactly as it was intended.</p> <p>5 Q. As part of that, would -- I</p> <p>6 just want to make sure we're talking about</p> <p>7 the right period of time. This is pre-2010</p> <p>8 that we're discussing now; right?</p> <p>9 MS. TABACCHI: Object to the</p> <p>10 form.</p> <p>11 THE WITNESS: This is -- this</p> <p>12 is a period that spanned from about</p> <p>13 1993 to the changes that were</p> <p>14 implemented in 2015.</p> <p>15 Q. (BY MR. INNES) So would a --</p> <p>16 would a pharmacist raise their hand, in your</p> <p>17 terminology, if -- or would it be proper for</p> <p>18 a Walmart pharmacist to raise their hand, in</p> <p>19 your terminology, if they're presented with a</p> <p>20 script that -- for a Schedule II opioid that</p> <p>21 appeared to have been written for an improper</p> <p>22 purpose?</p> <p>23 MS. TABACCHI: Object to the</p> <p>24 form.</p> <p>25 THE WITNESS: That type of</p>
<p>1 an issue as it related to filling</p> <p>2 prescriptions.</p> <p>3 Q. (BY MR. INNES) Okay. How</p> <p>4 would a pharmacist who -- well, strike that.</p> <p>5 When you say a pharmacist would</p> <p>6 raise their hand, what do you mean by that?</p> <p>7 A. Report -- we had a requirement</p> <p>8 to report a prescription error. If they</p> <p>9 didn't report, they could be terminated.</p> <p>10 When they did report, we would track that</p> <p>11 information. We would retrain them.</p> <p>12 But raising their hand was</p> <p>13 filing a report, basically.</p> <p>14 Q. And you said it was -- I think</p> <p>15 you said it was an error report?</p> <p>16 A. Yes.</p> <p>17 Q. What would be considered an</p> <p>18 error?</p> <p>19 A. A checkout error. There were a</p> <p>20 multitude of categories. It could be a</p> <p>21 quantity error. It could be an error by the</p> <p>22 prescriber. We didn't hold our pharmacists</p> <p>23 responsible for that, obviously.</p> <p>24 It could be the strength on the</p> <p>25 prescription was not accurate. It was a</p>	<p>Page 23</p> <p>1 communication wasn't part of the</p> <p>2 quality assurance program that I've</p> <p>3 been discussing.</p> <p>4 Q. (BY MR. INNES) Okay. So it's</p> <p>5 my understanding, based on the testimony and</p> <p>6 documents in the case, that Walmart</p> <p>7 pharmacists, for a period of time, at least</p> <p>8 in this '93 to 2015 period were provided</p> <p>9 training as to how to identify an order -- or</p> <p>10 a script for a Schedule II narcotic that may</p> <p>11 not have been written for a medically</p> <p>12 necessary purpose?</p> <p>13 MS. TABACCHI: Object to the</p> <p>14 form.</p> <p>15 THE WITNESS: No. That's --</p> <p>16 that wasn't the -- I'm not following,</p> <p>17 but I don't think that was the -- as</p> <p>18 you've described, it was the intent or</p> <p>19 the way that our program worked.</p> <p>20 Q. (BY MR. INNES) Which program</p> <p>21 are you referring to?</p> <p>22 A. The quality assurance program?</p> <p>23 Q. Okay. So outside -- so let me</p> <p>24 break this down.</p> <p>25 So if, for example, a -- would</p>

<p style="text-align: right;">Page 26</p> <p>1 you agree that a script that was written for 2 a Schedule II narcotic, say, for example, 3 oxycodone, along with another script that was 4 presented by that same patient for 5 benzodiazepine, would that be something that 6 a pharmacist would want to investigate 7 further?</p> <p>8 MS. TABACCHI: Object to the 9 form.</p> <p>10 THE WITNESS: I think it would 11 depend on the circumstance and the 12 information that that individual 13 pharmacist had available.</p> <p>14 There would have to be 15 additional information that I would 16 need to be able to assess dose, 17 duration. I mean, there's a lot of 18 information that goes into how a 19 pharmacist would assess 20 appropriateness of a prescription.</p> <p>21 Q. (BY MR. INNES) And were 22 Walmart pharmacists trained to assess the 23 appropriateness of a prescription?</p> <p>24 MS. TABACCHI: Object to the 25 form.</p>	<p style="text-align: right;">Page 28</p> <p>1 utilization review encompasses just a 2 wide variety of clinical review that 3 the pharmacist would perform. Within 4 that program, an example of that, of 5 how a drug utilization review could be 6 reported is if they missed an allergy. 7 If there was an allergy to the drug 8 that was dispensed and the pharmacist 9 somehow missed that allergy with a 10 patient, that would be an example of 11 the quality assurance report that 12 could be made.</p> <p>13 Q. (BY MR. INNES) Can you think 14 of an example that a quality assurance could 15 be made as it involves -- involving a 16 Schedule II narcotic?</p> <p>17 MS. TABACCHI: Object to the 18 form.</p> <p>19 THE WITNESS: If there was an 20 error in the dispensing of that 21 prescription, that would be 22 reportable.</p> <p>23 Q. (BY MR. INNES) And what would 24 an error in dispensing be in that case?</p> <p>25 A. It would be the same as a</p>
<p style="text-align: right;">Page 27</p> <p>1 THE WITNESS: I think that's 2 inherent in a pharmacist's education.</p> <p>3 Q. (BY MR. INNES) Do you know 4 that to be the case? That that's inherent in 5 a pharmacist's education?</p> <p>6 MS. TABACCHI: Object to the 7 form.</p> <p>8 THE WITNESS: I know that in my 9 personal case, that I've been trained 10 to assess the appropriateness of 11 prescriptions and dosing. That's -- 12 as a pharmacist, that's what I would 13 do.</p> <p>14 Q. (BY MR. INNES) And if a -- but 15 assessing the appropriateness of a 16 prescription and dosing falls outside of this 17 raising your hand definition you gave me 18 earlier; is that right?</p> <p>19 MS. TABACCHI: Object to the 20 form.</p> <p>21 THE WITNESS: So one of -- one 22 of the categories that could be -- 23 could be reported would be something 24 that we called drug utilization review 25 if a dose was high. And it's -- drug</p>	<p style="text-align: right;">Page 29</p> <p>1 non-controlled prescription. If they somehow 2 got the strength wrong, the directions were 3 inaccurate, that would be reportable within 4 the quality assurance program.</p> <p>5 Q. And I want to circle back to -- 6 a couple of times you've used the word 7 "punitive."</p> <p>8 What was the nature of the 9 punitive -- why do you use the word 10 "punitive" in the context of quality 11 assurance?</p> <p>12 A. The reason that I use that word 13 is we had a very extensive training program 14 within our quality assurance program, and 15 what that involved was at a certain point, if 16 a pharmacist had a certain number of reports 17 accumulated, we would bring them to 18 Bentonville for a -- it was a three-day 19 training session around our process and 20 helping them to orient within the quality 21 assurance program. And that training was 22 seen as very punitive. People did not want 23 to be pulled out of their pharmacy and come 24 to Bentonville for this extensive training 25 program.</p>

Page 30	Page 32
<p>1 Q. Were they paid for their time 2 in Bentonville? 3 A. Yes. 4 Q. So the punitive nature was the 5 travel to Bentonville and being away from 6 home for three days? 7 A. I think it would be -- some of 8 them were professionally embarrassed that 9 they would be brought to Bentonville. 10 Q. Okay. And then you mentioned 11 that, I believe, that at some point a 12 pharmacist could be fired for failure to 13 adhere to quality assurance; is that right? 14 A. That is correct. 15 Q. And as I understand it, this 16 Just Culture approach and concept was to move 17 away from a more punitive system to something 18 kinder and gentler? Is that fair? 19 MS. TABACCHI: Object to the 20 form. 21 THE WITNESS: So the -- what we 22 implemented through the Just Culture 23 was a different type of follow-up on 24 the reports that were being made. 25 Still, if a pharmacist fails to report</p>	<p>1 MS. TABACCHI: Object to the 2 form. 3 THE WITNESS: No. 4 MR. INNES: Okay. 5 THE WITNESS: The -- the 6 directed training -- we don't bring 7 them to Bentonville anymore. 8 Q. (BY MR. INNES) All right. 9 Okay. So the punitive nature of being 10 brought to Bentonville was taken out by 11 Just Culture; right? 12 A. Yes. 13 Q. Okay. 14 A. That process that was at the 15 end of the -- kind of at the end of the 16 process. 17 Q. And the punitive nature prior 18 to Just Culture was this mark on their -- on 19 their reputation, I suppose? 20 A. That was one of them. It was 21 being flagged as needing retraining as a 22 pharmacist in this process. And then it was 23 also the possibility that they could be 24 terminated if they didn't improve on that 25 performance.</p>
<p>1 a prescription error, they can be 2 terminated, but the -- what we did is 3 we took the training that was kind of 4 at the end of the process and moved it 5 to the beginning, which is one of the 6 tenets of Just Culture, to say -- we 7 didn't wait for an accumulation of 8 reports. We retrained our entire 9 staff and continued to work. At the 10 point of which a report comes in, 11 there's extensive refocus, retraining 12 that occurs at that point instead of 13 waiting for an accumulation and then 14 terminating someone. 15 Q. (BY MR. INNES) So as I 16 understood, prior to the Just Culture program 17 being implemented, there would be, after an 18 accumulation of errors, the pharmacist was 19 summoned to Bentonville to undergo training; 20 is that right? 21 A. It was a retraining. 22 Q. A retraining. Okay. And after 23 the rollout of Just Culture, if there was a 24 single error, that pharmacist was summoned to 25 Bentonville?</p>	<p>1 Q. So how did either the -- I'm 2 just trying to figure out how either of those 3 were removed when you rolled out 4 Just Culture. 5 Don't both those two -- those 6 two punitive results, as you described them, 7 still exist under the Just Culture? 8 A. No. No. They do not. 9 The idea of -- of waiting until 10 a problem surfaces and then addressing it is 11 not a Just Culture. So today, what happens 12 is if they report the -- when they report an 13 issue, we -- the -- we immediately look at 14 the circumstances of the report and then 15 provide them with training on that specific 16 piece of the process so that they're 17 reoriented to -- to prevent the possibility 18 on the front side. 19 In the past, we would -- they 20 would develop a plan of action, but that plan 21 of action was their own focus. We -- the 22 quality improvement team didn't insert 23 themselves into the process for training as 24 early in the process as we do today. 25 Q. So I want to sort of take this</p>

<p style="text-align: right;">Page 34</p> <p>1 from the top.</p> <p>2 How does a -- how does one go</p> <p>3 about reporting a prescription error?</p> <p>4 A. We have a system -- a reporting</p> <p>5 system.</p> <p>6 Q. And who reports a prescription</p> <p>7 error?</p> <p>8 MS. TABACCHI: Object to the</p> <p>9 form.</p> <p>10 THE WITNESS: The policy is</p> <p>11 that the discovering pharmacist</p> <p>12 reports.</p> <p>13 Q. (BY MR. INNES) How does a</p> <p>14 pharmacist discover an error?</p> <p>15 MS. TABACCHI: Object to the</p> <p>16 form.</p> <p>17 THE WITNESS: It could be</p> <p>18 through their own review of a</p> <p>19 prescription. They often report what</p> <p>20 we call a near miss, something that</p> <p>21 they caught in their -- in their</p> <p>22 review of prescriptions.</p> <p>23 It could be a customer that</p> <p>24 comes back, raises an issue to them,</p> <p>25 and those are reported.</p>	<p style="text-align: right;">Page 36</p> <p>1 form.</p> <p>2 THE WITNESS: It's our policy.</p> <p>3 It's our policy to report.</p> <p>4 Q. (BY MR. INNES) And it's a</p> <p>5 self-reporting function; is that right?</p> <p>6 A. Yes.</p> <p>7 Q. So if a pharmacist doesn't</p> <p>8 report a filling error on him or herself, how</p> <p>9 is Walmart aware of the filling error?</p> <p>10 A. So at the point at which we</p> <p>11 become aware of it, that pharmacist could be</p> <p>12 terminated. The policy is such that if an</p> <p>13 error is discovered and it's not reported,</p> <p>14 the non-reporting pharmacist can be</p> <p>15 terminated.</p> <p>16 Q. All right. So now maybe we're</p> <p>17 getting somewhere.</p> <p>18 So how could an error that was</p> <p>19 not reported be discovered?</p> <p>20 A. It could be other staff members</p> <p>21 that are aware. It could be the</p> <p>22 pharmacist -- it could be that a patient</p> <p>23 raises it to someone else.</p> <p>24 That's typically how a</p> <p>25 non-reported error is surfaced.</p>
<p style="text-align: right;">Page 35</p> <p>1 There are a variety of ways</p> <p>2 that they could be made aware of an</p> <p>3 error.</p> <p>4 Q. (BY MR. INNES) Okay. So is it</p> <p>5 a self-reporting concept?</p> <p>6 A. It is self-reporting.</p> <p>7 Q. So do other pharmacists have</p> <p>8 oversight over another pharmacist? Where</p> <p>9 they'd be reviewing prescriptions that were</p> <p>10 filled for error?</p> <p>11 MS. TABACCHI: Object to the</p> <p>12 form.</p> <p>13 THE WITNESS: Our standard</p> <p>14 operating procedure, which is the</p> <p>15 process by which we fill</p> <p>16 prescriptions, is -- the easiest way</p> <p>17 to describe it is it's a, kind of team</p> <p>18 filling. And so there are specific</p> <p>19 reviews that occur throughout the</p> <p>20 process of filling a prescription to</p> <p>21 ensure accurate filling.</p> <p>22 Q. (BY MR. INNES) What incentive</p> <p>23 does a pharmacist have to report his or her</p> <p>24 own filling error?</p> <p>25 MS. TABACCHI: Object to the</p>	<p style="text-align: right;">Page 37</p> <p>1 Q. Okay. And the responsibility</p> <p>2 to report a filling error is inherent in the</p> <p>3 pharmacist's responsibilities; is that right?</p> <p>4 MS. TABACCHI: Object to the</p> <p>5 form.</p> <p>6 THE WITNESS: It's in Walmart's</p> <p>7 policy.</p> <p>8 Q. (BY MR. INNES) Absent</p> <p>9 Walmart's policies, would a pharmacist have a</p> <p>10 duty to report a filling error?</p> <p>11 MS. TABACCHI: Object to the</p> <p>12 form.</p> <p>13 THE WITNESS: I'm not sure I</p> <p>14 know, because it -- the reporting</p> <p>15 requirement is Walmart -- is part of</p> <p>16 Walmart's quality improvement program.</p> <p>17 I don't know where they'd</p> <p>18 report if it wasn't -- if we didn't</p> <p>19 provide the means by which they could</p> <p>20 report.</p> <p>21 Q. (BY MR. INNES) Okay. So an</p> <p>22 unreported error could be discovered through</p> <p>23 either a patient coming in and raising the</p> <p>24 issue. That's one way; right?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 38</p> <p>1 Q. Another way is another staff 2 member, someone other than the pharmacist 3 filling the order could discover the error 4 and report it.</p> <p>5 MS. TABACCHI: Object to the 6 form.</p> <p>7 THE WITNESS: Yes.</p> <p>8 Q. (BY MR. INNES) And how would 9 another staff member go about determining 10 whether or not there was a filling error by 11 another pharmacist?</p> <p>12 A. Just in the course of, you 13 know, working. There could be a mention by 14 another staff member. It might be depending 15 on what the -- you know, what the 16 circumstances were. There might be some 17 inventory adjustment that's made. It would 18 just be something that occurs in the course 19 of business that raises the incident to the 20 attention of another pharmacist.</p> <p>21 Q. So there's a -- other than 22 those two avenues to identify a filling error 23 by a pharmacist, other than by the 24 pharmacist's own person, is there anything 25 else in Walmart's policies where you could</p>	<p>1 through the Patient Safety and Quality 2 Improvement Act.</p> <p>3 Q. Did Walmart do any -- so the 4 Just Culture program -- after the 5 Just Culture program was in effect, did 6 Walmart do any audits or analysis to judge 7 its effectiveness?</p> <p>8 MS. TABACCHI: Object to the 9 form.</p> <p>10 THE WITNESS: So again, 11 Just Culture was implemented when we 12 established the patient safety 13 organization and began reporting. So 14 any analysis that was performed would 15 be protected as patient safety work 16 product.</p> <p>17 Q. (BY MR. INNES) Pursuant to the 18 Patient Safety and Quality Improvement Act --</p> <p>19 A. Yeah.</p> <p>20 Q. -- that's your understanding?</p> <p>21 A. Yes.</p> <p>22 Q. Any other privileges that would 23 apply to that that you're aware of?</p> <p>24 MS. TABACCHI: Object to the 25 form.</p>
<p style="text-align: right;">Page 39</p> <p>1 discover a filling error?</p> <p>2 MS. TABACCHI: Object to the 3 form.</p> <p>4 THE WITNESS: Not that -- not 5 that I'm thinking of.</p> <p>6 There may be, but not that I'm 7 thinking of at the moment.</p> <p>8 Those are the ones that come to 9 mind specific to the pharmacy.</p> <p>10 Q. (BY MR. INNES) There's no home 11 office audit of pharmacists' fillings of 12 prescriptions?</p> <p>13 MS. TABACCHI: Object to the 14 form.</p> <p>15 THE WITNESS: Our pharmacists 16 and the quality improvement program 17 participate and report errors to our 18 patient safety organization. Those 19 reports are patient safety work 20 product and therefore they are 21 privileged. So the work of the PSO is 22 protected by privilege.</p> <p>23 Q. (BY MR. INNES) What privilege 24 are you referring to?</p> <p>25 A. It's a privilege afforded</p>	<p>1 THE WITNESS: Work that's 2 conducted within the PSO is often 3 attorney-client privilege, but the 4 stand-alone privilege for patient 5 safety work product is afforded by the 6 Act.</p> <p>7 Q. (BY MR. INNES) Okay.</p> <p>8 A. And there's a patient safety 9 rule as well.</p> <p>10 Q. So is that -- at bottom, is it 11 fair to say that the Just Culture program is 12 aimed at ensuring safe business practices 13 balanced with individual employee 14 accountability?</p> <p>15 MS. TABACCHI: Object to the 16 form.</p> <p>17 THE WITNESS: I think that's a 18 fair way to summarize.</p> <p>19 Q. (BY MR. INNES) Okay. Are you 20 aware of any other place of Walmart's 21 business where a Just Culture was applied?</p> <p>22 MS. TABACCHI: Object to the 23 form.</p> <p>24 THE WITNESS: Not under the 25 kind of term of art of Just Culture.</p>

Page 42	Page 44
<p>1 I think our overall culture which 2 incorporates beliefs around respect 3 for the individual and understanding 4 circumstances. There's an element of 5 Just Culture that really is embedded 6 in Walmart's overall culture, but it's 7 not to the tenets of Just Culture as 8 described in, for example, the Marx 9 work that I referenced earlier.</p> <p>10 Q. (BY MR. INNES) What's your -- 11 can you articulate what the tenets of 12 Mr. Marx's understanding of Just Culture are?</p> <p>13 MS. TABACCHI: Object to the 14 form.</p> <p>15 THE WITNESS: Yes. So it's, 16 first and foremost, that if you punish 17 people for coming forward, that 18 because people are human, they make 19 choices, and so you have to manage to 20 the choices that people make.</p> <p>21 It incorporates human factor 22 engineering. It describes specific 23 levels of human behavior that include 24 human error; at-risk behavior, which 25 is where the choice comes in; and then</p>	<p>1 Q. Where possible? 2 A. Yes. 3 Q. And why the desire to remove 4 human choice where possible? 5 A. So it -- what -- again, as 6 you -- as it refers to Just Culture and human 7 choice, some -- there are times when a -- 8 I'll -- let me explain it this way. 9 So from a human error 10 perspective, the -- like the easiest example 11 is, I'm driving my car. I'm speeding. I 12 don't realize that the speed limit has 13 changed; and therefore, it's like human -- I 14 didn't -- it's human error. I didn't realize 15 that the speed limit changed, and I had no 16 intent to speed.</p> <p>17 The next behavior that is -- 18 that -- the kind of at-risk behavior is, I'm 19 driving. I know that the speed limit is 70, 20 but I think I can go 72. I don't see the 21 risk in doing that, but I've made that choice 22 and that's the way I'm going to act.</p> <p>23 The reckless behavior in that 24 scenario would be, I'm going 72 in a school 25 zone. I mean, that's -- I mean, that's a</p>
<p>1 what I will describe from the -- from 2 the Just Culture approach, blatant 3 disregard, or -- blatant disregard for 4 harm to others.</p> <p>5 And so those choices are based 6 on the values of the individual that's 7 involved in the choice that they're 8 making.</p> <p>9 Q. (BY MR. INNES) What's human 10 factor engineering?</p> <p>11 A. It -- what it describes is, as 12 you're designing systems, that you have to 13 factor into the design that humans are 14 involved in the process, and that they will 15 make choices. So where -- where you can 16 insert a force function that takes out the 17 opportunity to choose, to get a consistent 18 outcome, that's kind of the desire of human 19 factor engineering.</p> <p>20 It's really related to systems 21 and process development.</p> <p>22 Q. Systems and process development 23 that would remove -- or that establish force 24 functions to remove human choice?</p> <p>25 A. Where possible.</p>	<p>1 Page 43 2 reckless behavior. And so that's kind of the 3 everyday analysis of human behavior and how 4 humans make choices. And we all do it every 5 day in everything that we do.</p> <p>5 Q. So I think you described three 6 categories there. Right? It's, I don't know 7 the speed limit. I know the speed limit, but 8 I'm -- I can exceed it by some margin, and 9 then the third is, I know the speed limit and 10 I don't have any regard for the consequences. 11 That's the reckless one; is that right?</p> <p>12 A. That's the example.</p> <p>13 Q. Okay. Those are three distinct 14 examples. Okay.</p> <p>15 All right. Let's pull back a 16 little bit out of Just Culture. We might get 17 back there at some point today.</p> <p>18 Can you describe for me your 19 education following high school?</p> <p>20 Start chronologically up until 21 I think you obtained your MBA relatively 22 recently.</p> <p>23 So -- and then we're going to 24 cover some ground.</p> <p>25 But let's start with college.</p>

<p style="text-align: right;">Page 46</p> <p>1 A. My formal education, I attended 2 undergraduate at the University of Nebraska 3 Lincoln for pre-pharmacy. 4 I then attended pharmacy school 5 at the University of Nebraska Medical Center, 6 where I obtained a PharmD in 1986. 7 And then I completed my MBA in 8 2013 through Harding University. 9 Q. When did you graduate from 10 undergrad? 11 A. I did two years of undergrad. 12 Q. Okay. 13 A. And then entered pharmacy 14 school. 15 Q. Did you obtain a degree in 16 those two years? 17 A. No. 18 Q. And I think you said PharmD. 19 Can you describe for me what the PharmD 20 degree is? 21 A. It's a doctor of pharmacy 22 degree. 23 Q. Did you have any particular 24 focus in your doctor of pharmacy studies? 25 A. Pharmacy.</p>	<p style="text-align: right;">Page 48</p> <p>1 THE WITNESS: Not specific to 2 pain management. 3 I had rotations that would have 4 involved pain medications, but not 5 specific to pain management. 6 Q. (BY MR. INNES) Okay. During 7 those rotations, did you have opportunity to 8 work with or -- and/or study opioid products? 9 MS. TABACCHI: Object to the 10 form. 11 THE WITNESS: I would have 12 studied opioid products as part of the 13 curriculum. 14 Q. (BY MR. INNES) Okay. Did you 15 take a -- was that a specific class part of 16 your curriculum? 17 A. It would have been part of 18 pharmacology classes that I took, and it 19 likely would have been part of a therapeutics 20 course that was part of the curriculum. 21 Q. Can you describe why you 22 believe it would have been part of a 23 therapeutics course? 24 A. We did different disease state 25 modules through the therapeutics course</p>
<p style="text-align: right;">Page 47</p> <p>1 Q. Right. Within the category of 2 pharmacy, did you have a focus on, say, a 3 particular category of drugs? 4 A. No. It was a broad-based 5 education to -- PharmD at that time, Nebraska 6 was one of only eight colleges of pharmacy 7 that was PharmD only. And so that's why it's 8 my original degree. It was a more clinically 9 focused degree at that time. The prior 10 degree was bachelor of pharmacy. 11 So we spent an additional year 12 in clinical rotations, but they were 13 broad-based, including hospital, community, 14 geriatrics, psychi -- we had a psychiatry 15 rotation. But the PharmD was intended to be 16 more clinically based than the previous 17 degree. And today PharmD is the degree. 18 It's the only degree. It's evolved over time 19 that you can't earn a bachelor's degree 20 anymore. Everyone's PharmD. 21 Q. Did you ever have a clinical 22 rotation through a practice focused on pain 23 management? 24 MS. TABACCHI: Object to the 25 form.</p>	<p style="text-align: right;">Page 49</p> <p>1 which covered all the drugs -- or the 2 majority of the drugs that we would have 3 studied in pharmacology. Pharmacology was 4 more kind of a basic sciences, and then 5 therapeutics was more of the clinical 6 application. 7 Q. Okay. 8 In that -- those clinical 9 applications, you mentioned disease states. 10 Were opioids -- during those classes were 11 opioids discussed during a specific disease 12 state? 13 A. I don't recall. 14 Q. When you -- you also mentioned 15 that there was -- let's just bifurcate -- 16 pharmacology and clinical. 17 In pharmacology, did you study 18 the effects of opioids on the human body? 19 A. Pharmacology would have been 20 kind of the chemistry behind the compound, 21 how they work, where they work. So that 22 would have -- it would have been 23 understanding the chemical structure of the 24 drug, and then the process by which they work 25 in the body.</p>

Page 50	Page 52
<p>1 Q. And did you come to understand 2 the chemical structure of opioids?</p> <p>3 MS. TABACCHI: Object to the 4 form.</p> <p>5 THE WITNESS: I believe it 6 would have been part of that course.</p> <p>7 Q. (BY MR. INNES) Okay. And then 8 in that course, did you also come to 9 understand the process by which opioids work 10 in the body?</p> <p>11 MS. TABACCHI: Object to the 12 form.</p> <p>13 THE WITNESS: I believe so.</p> <p>14 Q. (BY MR. INNES) Okay. Did you 15 study the differences between immediate 16 release and extended release tablets?</p> <p>17 A. I don't know if in 1980 -- 18 well, that probably would have been 1984. I 19 don't recall what formulations were 20 available. I don't know if there were 21 extended release at that time. I don't 22 recall that.</p> <p>23 Q. Okay. Did you study -- strike 24 that.</p> <p>25 As part of your studies for</p>	<p>1 Q. Following the degree you 2 obtained -- the PharmD degree you obtained -- 3 strike that.</p> <p>4 Let's go over the history of 5 your employment now.</p> <p>6 Did you have a job while you 7 were in college?</p> <p>8 A. Yes.</p> <p>9 Q. Where was that?</p> <p>10 A. So two. I worked at a local 11 pharmacy in Omaha, Nebraska. We had a 12 requirement to gain experience hours on our 13 own, so I worked at a -- I was an intern at a 14 pharmacy in Omaha.</p> <p>15 I also was a member of the 16 Nebraska National Guard.</p> <p>17 Q. Did you have any 18 responsibilities regarding -- any pharmacy 19 responsibilities during your service in the 20 Nebraska National Guard?</p> <p>21 A. No.</p> <p>22 Q. Following your graduation from 23 PharmD, or obtaining your PharmD, where were 24 you employed?</p> <p>25 A. I went on active duty in the</p>
<p>1 PharmD, did you receive any presentations or 2 courses from drug manufacturers?</p> <p>3 A. Not that I recall. It would 4 have been university professors.</p> <p>5 Q. As part of your studies for 6 PharmD, did you take any classes specific to 7 the business of pharmacy?</p> <p>8 A. We had a pharmacy 9 administration class.</p> <p>10 Q. And what did that pharmacy 11 administration class cover generally?</p> <p>12 A. It was general business 13 operations, what -- probably is an equivalent 14 like an economics class but related to 15 pharmacy operation.</p> <p>16 Q. And by an "economics class," 17 what do you mean by equivalent of an 18 economics class?</p> <p>19 A. It would be purchases and 20 finance of a pharmacy. It was focused on 21 pharmacists who might want to open their own 22 business, be their own business owner.</p> <p>23 Q. So not macroeconomic theory or 24 something like that?</p> <p>25 A. Nothing that detailed.</p>	<p>1 Page 51</p> <p>1 Navy as a pharmacist.</p> <p>2 Q. Okay. And how long were you on 3 active duty in the Navy?</p> <p>4 A. Three years.</p> <p>5 Q. And what were your 6 responsibilities as an active duty pharmacist 7 in the Navy?</p> <p>8 A. I was stationed at Naval 9 Hospital, Jacksonville, Florida. I was the 10 inpatient pharmacist, so my responsibilities 11 included rounds with physicians. We had a 12 family practice residency through the Navy, 13 so all Navy doctors that were in family 14 practice went through that residency.</p> <p>15 So I did rounds with the 16 residents and with the attending. I sat on 17 the pharmacy and therapeutics committee for 18 the hospital. I checked carts. I 19 compounded. I made TPNs and chemo IVs.</p> <p>20 And then I supplemented -- we 21 had an outpatient pharmacy that dispensed -- 22 was very high-volume, so I also had duties, 23 when my inpatient responsibilities were 24 complete, to go help out in the outpatient 25 pharmacy.</p>

<p style="text-align: right;">Page 54</p> <p>1 Q. Okay. In that role, did you 2 have occasion to dispense opioid products? 3 A. Yes. 4 Q. And do you recall specifically 5 what those conditions were that you were 6 treating with opioids at that time? 7 MS. TABACCHI: Object to the 8 form. 9 THE WITNESS: I don't. We used 10 opioids inpatient for pain management 11 post surgery, and we dispensed 12 outpatient prescriptions that we 13 received. 14 Q. (BY MR. INNES) Outside of 15 postsurgical dispensing, did you -- do you 16 recall if you ever dispensed opioids to treat 17 chronic pain? 18 MS. TABACCHI: Object to the 19 form. 20 THE WITNESS: Not that I 21 recall. The inpatient, we didn't -- 22 the inpatient stay was limited, and so 23 I don't recall that. 24 Q. (BY MR. INNES) Okay. I 25 believe you also -- maybe I misheard you, but</p>	<p style="text-align: right;">Page 56</p> <p>1 A. About six weeks. 2 Q. Okay. And following that 3 six-week stint in 1989 as a part-time 4 pharmacist, what was your next role at 5 Walmart? 6 A. I was full-time. 7 Q. Full-time. Okay. And how long 8 were you full time -- the full-time 9 pharmacist in San Antonio? 10 A. About nine months. 11 Q. And then what was your next 12 title? 13 A. My husband was in the Navy, so 14 we transitioned to a new duty station. And I 15 came to Florida as a staff pharmacist in the 16 Orlando area. 17 Q. Also at a Walmart? 18 A. Yes. Let me check that. That 19 is not true. We went to Pensacola after 20 San Antonio. 21 Q. Okay. 22 A. And I was a staff pharmacist in 23 Pensacola. 24 Q. At a Pensacola, Florida 25 Walmart?</p>
<p style="text-align: right;">Page 55</p> <p>1 I thought you said you had some outpatient 2 responsibilities as well? 3 A. Yes. 4 Q. Did those involve treatment of 5 chronic pain through dispensing of opioids? 6 MS. TABACCHI: Object to the 7 form. 8 THE WITNESS: We dispensed 9 opioids outpatient. There were -- I 10 just -- I don't know -- I didn't 11 always know what the diagnosis was 12 that we were dispensing for. 13 Q. (BY MR. INNES) When did you 14 leave active duty in the Navy? 15 A. 1989. 16 Q. And from there, where was your 17 next -- what was your next job? 18 A. Walmart. 19 Q. What was the first role you 20 held at Walmart? 21 A. I was a part-time pharmacist. 22 Q. And where was that? 23 A. San Antonio, Texas. 24 Q. How long were you a part-time 25 pharmacist in San Antonio Texas?</p>	<p style="text-align: right;">Page 57</p> <p>1 A. Yes. 2 Q. And what was your next job 3 after the Pensacola pharmacy? 4 A. We were there about a year, and 5 we transferred again to Orlando, and I was a 6 staff pharmacist. 7 Q. Okay. 8 And after Orlando? 9 A. I was promoted to pharmacy 10 manager of Mount Dora, Florida Walmart around 11 1993 or '94. 12 Q. Can you spell Mount Dora for 13 the benefit of the court reporter? 14 A. M-O-U-N-T, D-O-R-A. 15 Q. And after the new pharmacy 16 manager position at Mount Dora, what was your 17 next position? 18 A. I was promoted to district 19 manager, still in Florida. 20 Q. And what year was that? 21 A. 1998. 22 Q. And what was your region of 23 coverage as a district manager? 24 A. My first district was 25 largely -- it was south of -- it was south of</p>

Page 58	Page 60
<p>1 Orlando, from Haines City to Sebring.</p> <p>2 Q. And you mentioned a first</p> <p>3 district. Was there a second district that</p> <p>4 you covered?</p> <p>5 A. I have had five different</p> <p>6 districts over two years.</p> <p>7 Q. So maybe the best way to do</p> <p>8 this is let's just go through district by</p> <p>9 district and you can tell me the time period</p> <p>10 that you covered it and the region that it</p> <p>11 entailed. I realize this is 1998, so if you</p> <p>12 don't recall, you don't recall.</p> <p>13 So the first is south of</p> <p>14 Orlando. And what period of time was that?</p> <p>15 A. It was 1998, for a short period</p> <p>16 at a time -- we had a lot of realignments, so</p> <p>17 my alignments changed. All of these were in</p> <p>18 Florida, kind of in the Central Florida area.</p> <p>19 Q. Okay.</p> <p>20 A. The next one I believe I gained</p> <p>21 responsibility more toward the East Coast, so</p> <p>22 I had Melbourne, some of kind of the east</p> <p>23 edge of Orlando area.</p> <p>24 Q. And I'm sorry, the first was --</p> <p>25 was just a brief period of time in '98?</p>	<p>1 Orlando, that I recall, east of I-4.</p> <p>2 Q. And your fifth region? Or</p> <p>3 fifth district?</p> <p>4 A. I was a Sam's Club district</p> <p>5 manager, and I had all of the Sam's Clubs in</p> <p>6 the state of Florida.</p> <p>7 Q. And what time period was that?</p> <p>8 A. 2001 to 2002. For a year.</p> <p>9 Q. And was that in addition to --</p> <p>10 did you have any responsibilities for Walmart</p> <p>11 stores?</p> <p>12 A. Not at that time.</p> <p>13 Q. Okay. So in 2001 to 2002, you</p> <p>14 were responsible for all Sam's Clubs in</p> <p>15 Walmart -- in Florida.</p> <p>16 A. In Florida.</p> <p>17 Q. And following your tenure as a</p> <p>18 district manager for Sam's Clubs which ended</p> <p>19 in 2002, what was your next position?</p> <p>20 A. I was promoted to regional</p> <p>21 manager.</p> <p>22 Q. And what region were you</p> <p>23 responsible for?</p> <p>24 A. I had their region that spanned</p> <p>25 from East Texas to -- through Mobile. It</p>
Page 59	Page 61
<p>1 A. '98. Probably a little bit</p> <p>2 into 19 -- early 1999.</p> <p>3 Q. And the second was?</p> <p>4 A. The second was -- would have</p> <p>5 largely followed that, Melbourne. I had a --</p> <p>6 I think I went up to Daytona, but it was east</p> <p>7 of Orlando instead of south of Orlando. And</p> <p>8 that would have been maybe six months that I</p> <p>9 had that alignment.</p> <p>10 Q. Okay. And your third?</p> <p>11 A. My third was more kind of back</p> <p>12 in the area that I came from. At one point I</p> <p>13 supervised. So moving a little bit west. I</p> <p>14 had Lakeland at one point over to Tampa.</p> <p>15 I don't recall exactly how</p> <p>16 these flowed, but just generally there were</p> <p>17 multiple alignments over that period of time.</p> <p>18 Q. Okay. So I think we're on to</p> <p>19 the fourth.</p> <p>20 A. Fourth I had -- I had Orlando.</p> <p>21 I had areas in Orlando.</p> <p>22 Q. Portions of Orlando or all of</p> <p>23 Orlando?</p> <p>24 A. I didn't have all of it. I had</p> <p>25 kind of the -- again, the east side of</p>	<p>1 included all of Louisiana and the southern</p> <p>2 parts of Mississippi and Alabama.</p> <p>3 Q. Okay. And what years did you</p> <p>4 hold that title?</p> <p>5 A. I was a regional for three</p> <p>6 years. I had that single alignment for one</p> <p>7 year.</p> <p>8 Q. Okay. What was the next</p> <p>9 alignment you had?</p> <p>10 A. So I still had that area, but</p> <p>11 due to some just kind of personnel changes, I</p> <p>12 was also given responsibility for the region</p> <p>13 that was South Texas.</p> <p>14 So I had roughly -- still the</p> <p>15 East Texas, Houston area that I had, but I</p> <p>16 added Austin, all the way south into The</p> <p>17 Valley.</p> <p>18 Q. For the benefit of us that</p> <p>19 don't live in Texas, what is the valley?</p> <p>20 A. That's just the -- like what's</p> <p>21 along the Mexican border is the way that we</p> <p>22 referred to The Valley.</p> <p>23 Q. Did you have any other</p> <p>24 alignments besides those two in the 2002-</p> <p>25 2005 time period?</p>

<p style="text-align: right;">Page 62</p> <p>1 A. No.</p> <p>2 Q. What was your next position at</p> <p>3 Walmart?</p> <p>4 A. In 2002, I was director of</p> <p>5 professional services.</p> <p>6 Q. So in 2002, you're director of</p> <p>7 professional services and also regional</p> <p>8 manager?</p> <p>9 A. Oh, I'm sorry, did I say '2? I</p> <p>10 meant '5. 2005, I was director of</p> <p>11 professional services.</p> <p>12 Q. What were your duties as</p> <p>13 director of professional services?</p> <p>14 A. I had responsibility for Board</p> <p>15 of Pharmacy issues, policies, as well as --</p> <p>16 it was -- it was largely regulatory issues</p> <p>17 around the practice of pharmacy for the</p> <p>18 states that I was responsible for.</p> <p>19 Q. And what states were those?</p> <p>20 A. So through this time period</p> <p>21 where I was a director, that alignment</p> <p>22 changed as well. And over the period of time</p> <p>23 that I had state-specific responsibility, I</p> <p>24 probably had every state at some point over</p> <p>25 that time period.</p>	<p style="text-align: right;">Page 64</p> <p>1 and policies.</p> <p>2 What exactly does that entail?</p> <p>3 A. So the large part of my -- the</p> <p>4 day-to-day, if -- if we were looking at a new</p> <p>5 project, it would be my responsibility to</p> <p>6 contact the board or, you know, research</p> <p>7 pharmacy practice acts to see what a</p> <p>8 requirement might be around the specific</p> <p>9 project that we were working on so that we</p> <p>10 could make sure we met the state</p> <p>11 requirements.</p> <p>12 I had responsibility for Board</p> <p>13 of Pharmacy relations, so that if there was</p> <p>14 an inspection or communication with the</p> <p>15 board, I supported the pharmacists in my area</p> <p>16 with those communications or with any</p> <p>17 follow-up that was needed.</p> <p>18 And then as it related to</p> <p>19 anything that might have involved those</p> <p>20 states or stores with filing a DEA 106.</p> <p>21 Dispensing issues in those stores, that was</p> <p>22 my responsibility as well.</p> <p>23 Q. Okay.</p> <p>24 Do you recall any DEA 106</p> <p>25 dispensing issues related to opioids during</p>
<p style="text-align: right;">Page 63</p> <p>1 There were three of us when I</p> <p>2 started. There were -- at one point there</p> <p>3 were two of us, so I had half the country at</p> <p>4 any one time. So it varied.</p> <p>5 Q. At any point in time do you</p> <p>6 recall being the director -- having</p> <p>7 responsibility for the state of Ohio?</p> <p>8 A. I don't remember specifically.</p> <p>9 But again, because I think I had</p> <p>10 responsibility at some point in time for</p> <p>11 every state. Ohio was never my, kind of,</p> <p>12 principal area. Mostly what I had was the</p> <p>13 west. But I do think there was a period of</p> <p>14 time when there were two of us that I picked</p> <p>15 up Ohio for a short period of time.</p> <p>16 Q. And would there be a way for us</p> <p>17 to figure out what time period you covered</p> <p>18 Ohio, if ever?</p> <p>19 A. I'm not sure how that -- I'm</p> <p>20 not sure what that would be.</p> <p>21 Q. How long were you a director of</p> <p>22 professional services?</p> <p>23 A. Until 2009.</p> <p>24 Q. Okay. And you said you were</p> <p>25 responsible for the Board of Pharmacy issues</p>	<p style="text-align: right;">Page 65</p> <p>1 that time period?</p> <p>2 MS. TABACCHI: Object to the</p> <p>3 form.</p> <p>4 THE WITNESS: I know we filed</p> <p>5 DEA 106 reports of loss of controlled</p> <p>6 substances during that time period.</p> <p>7 Q. (BY MR. INNES) And do you</p> <p>8 recall specific to opioids?</p> <p>9 A. Opioids would have been</p> <p>10 reportable -- included in those reports.</p> <p>11 They would have been included in some of the</p> <p>12 reports we filed.</p> <p>13 Q. Okay. I'm sorry, they could</p> <p>14 have been or they would have been?</p> <p>15 A. They were. But not all.</p> <p>16 Without looking at the records, opioids were</p> <p>17 reportable, and so they would have been</p> <p>18 included in reports if there was a loss.</p> <p>19 Q. Okay. And so I understand the</p> <p>20 requirement of the 106, and your</p> <p>21 understanding, I think, is correct that a 106</p> <p>22 report could include an opioid if there was a</p> <p>23 loss of them.</p> <p>24 I'm wondering if you recall any</p> <p>25 such incident that did -- that actually did</p>

<p style="text-align: right;">Page 66</p> <p>1 involve an opioid.</p> <p>2 MS. TABACCHI: Object to the</p> <p>3 form.</p> <p>4 THE WITNESS: Not specifically.</p> <p>5 I know they were -- I know</p> <p>6 there were some, but not specifics as</p> <p>7 to an individual form that was filed.</p> <p>8 Q. (BY MR. INNES) So you recall</p> <p>9 there was, but you can't point to the exact</p> <p>10 point in time when that happened? Is that</p> <p>11 fair?</p> <p>12 MS. TABACCHI: Object to the</p> <p>13 form.</p> <p>14 THE WITNESS: Yes.</p> <p>15 Q. (BY MR. INNES) Did you</p> <p>16 represent any pharmacists in front of the</p> <p>17 boards of pharmacy that you had</p> <p>18 responsibility for regarding the dispensing</p> <p>19 of opioids?</p> <p>20 A. So can you define "represent"?</p> <p>21 Q. Let's see.</p> <p>22 You say you supported</p> <p>23 pharmacists in your areas with communications</p> <p>24 and any follow-up needed related to Board of</p> <p>25 Pharmacy inspections or communications with</p>	<p style="text-align: right;">Page 68</p> <p>1 to support them and help them in</p> <p>2 responding to the board.</p> <p>3 Q. (BY MR. INNES) Okay. And as</p> <p>4 you sit here today, you don't recall a</p> <p>5 specific time where that might have involved</p> <p>6 your support -- that your support was needed</p> <p>7 related to opioid dispensing?</p> <p>8 MS. TABACCHI: Object to the</p> <p>9 form.</p> <p>10 THE WITNESS: I don't</p> <p>11 specifically recall related to</p> <p>12 opioids. I did -- I did appear with a</p> <p>13 pharmacist, and on behalf of the</p> <p>14 permit in front of the Texas Board of</p> <p>15 Pharmacy around a DEA 106 loss. But</p> <p>16 my recollection was there was no</p> <p>17 opioid involved. There was a</p> <p>18 controlled substance, but I don't</p> <p>19 believe it was an opioid.</p> <p>20 Q. (BY MR. INNES) What was the</p> <p>21 outcome of that appearance?</p> <p>22 A. The pharmacy manager was not</p> <p>23 sanctioned from that appearance.</p> <p>24 Q. So I believe we're at 2009.</p> <p>25 What role did you have after the director of</p>
<p style="text-align: right;">Page 67</p> <p>1 the board.</p> <p>2 Can you describe what you meant</p> <p>3 by the support that you provided for</p> <p>4 pharmacists? As it related to opioids.</p> <p>5 MS. TABACCHI: Object to the</p> <p>6 form.</p> <p>7 THE WITNESS: So -- so support,</p> <p>8 in my prior testimony, what I meant by</p> <p>9 support was -- and not --</p> <p>10 So I'm not sure that I know a</p> <p>11 specific time with opioids. But had</p> <p>12 there been an instance, what we --</p> <p>13 what my role would have been to, was</p> <p>14 to understand what the board was</p> <p>15 asking for on an inspection. You</p> <p>16 know, what type of deficiency might be</p> <p>17 noted.</p> <p>18 We would help the pharmacist to</p> <p>19 draft communication back to the --</p> <p>20 back to the Board of Pharmacy, and</p> <p>21 then we would make sure that if there</p> <p>22 was -- if it was required, any plan of</p> <p>23 action or any follow-up that they had</p> <p>24 reported to the board was in place.</p> <p>25 And so it was a -- it was a way</p>	<p style="text-align: right;">Page 69</p> <p>1 professional services?</p> <p>2 A. In 2009, I was a senior</p> <p>3 director, regulatory affairs. Regulatory</p> <p>4 affairs was the new name for professional</p> <p>5 services.</p> <p>6 Q. Okay. Was that a title change?</p> <p>7 Was there a functional change to your</p> <p>8 day-to-day work?</p> <p>9 A. I was promoted in that 2009</p> <p>10 title.</p> <p>11 Q. And what were your</p> <p>12 responsibilities as senior director of</p> <p>13 regulatory affairs at that time?</p> <p>14 A. I had responsibility for the</p> <p>15 directors, the previous role that I had been</p> <p>16 in.</p> <p>17 Q. Okay.</p> <p>18 A. As well as the licensing</p> <p>19 function for our -- any license that a</p> <p>20 pharmacy or distribution center held.</p> <p>21 Q. Okay. Would that include DEA</p> <p>22 registrations for distribution?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. So that would include</p> <p>25 the licensing of -- or the registration of</p>

<p>1 the DC 6045?</p> <p>2 A. Yes.</p> <p>3 Q. How long did you hold that</p> <p>4 title?</p> <p>5 A. In July of 2011, I was moved to</p> <p>6 a role that was operations. I was senior</p> <p>7 director of compliance and quality assurance.</p> <p>8 Q. I just want to go back to the</p> <p>9 prior role. Do you recall the names of the</p> <p>10 directors that you oversaw during that time</p> <p>11 period?</p> <p>12 A. Yes.</p> <p>13 MS. TABACCHI: Object to the</p> <p>14 form.</p> <p>15 Q. (BY MR. INNES) During the time</p> <p>16 period where you were the senior director of</p> <p>17 regulatory affairs?</p> <p>18 A. Yes.</p> <p>19 Q. And what were their names?</p> <p>20 A. Tim Koch, George Chapman,</p> <p>21 Dadrian Gaston, and Debbie Mack.</p> <p>22 And I also had Jennifer Summer</p> <p>23 who was responsible for optical.</p> <p>24 Q. And you were -- your role</p> <p>25 immediately prior was -- was the same level</p>	<p>Page 70</p> <p>1 from an overarching perspective, meet</p> <p>2 the state requirements when we were</p> <p>3 establishing overall policy on a</p> <p>4 program.</p> <p>5 I looked at reports, trends of</p> <p>6 how they were interacting with</p> <p>7 different agencies, boards of</p> <p>8 pharmacy. I had general supervisory</p> <p>9 duties over them.</p> <p>10 Q. (BY MR. INNES) When you say</p> <p>11 looking at the cumulative work. Is this --</p> <p>12 tell me if I'm wrong, but these folks that</p> <p>13 you were overseeing are in charge of</p> <p>14 different regions; is that right?</p> <p>15 A. They had different alignment --</p> <p>16 different state responsibilities by -- they</p> <p>17 were assigned different areas of the country.</p> <p>18 Q. Okay. I'll try to use Walmart</p> <p>19 language. So they were aligned with a</p> <p>20 different -- with a -- each had an alignment</p> <p>21 with a specific Board of Pharmacy.</p> <p>22 A. Yes.</p> <p>23 MS. TABACCHI: Object to the</p> <p>24 form.</p> <p>25 THE WITNESS: A specific state.</p>
<p>1 as Mr. Koch, Chapman, Gaston, and Mack; is</p> <p>2 that right?</p> <p>3 MS. TABACCHI: Object to the</p> <p>4 form.</p> <p>5 THE WITNESS: George wasn't in</p> <p>6 role in 2009, but I was peers to</p> <p>7 Debbie, Dadrian, and Tim.</p> <p>8 And can I correct one thing?</p> <p>9 Jennifer was not in role. It was</p> <p>10 Angie Muldoon at that time in the</p> <p>11 optical role.</p> <p>12 Q. (BY MR. INNES) What were your</p> <p>13 responsibilities for the oversight of these</p> <p>14 directors?</p> <p>15 MS. TABACCHI: Object to the</p> <p>16 form.</p> <p>17 THE WITNESS: It was to -- I</p> <p>18 had a broader role around policy and</p> <p>19 programs, and then to make sure -- I</p> <p>20 mean, I oversaw what they were doing.</p> <p>21 If we -- if we had a project, again,</p> <p>22 as I described, where I would go look</p> <p>23 at my individual states, I would take</p> <p>24 a look at that cumulative work as it</p> <p>25 related to policy and how we could,</p>	<p>Page 71</p> <p>1 Q. (BY MR. INNES) A specific</p> <p>2 state. Okay.</p> <p>3 And when you're looking at</p> <p>4 cumulative work, are you looking at the</p> <p>5 cumulative work across all states? Is that</p> <p>6 what you mean?</p> <p>7 A. What I was describing was where</p> <p>8 my previous role had been, I'm responsible</p> <p>9 for understanding my state and how -- how a</p> <p>10 requirement might fit into a program.</p> <p>11 In my alignment, when I was</p> <p>12 promoted, I had to take their work</p> <p>13 cumulatively across their areas of</p> <p>14 responsibility, and then understand how that</p> <p>15 worked for the entire organization.</p> <p>16 So I no longer had individual</p> <p>17 alignment. I had to take their work in total</p> <p>18 and apply it to our policies from an</p> <p>19 overarching perspective.</p> <p>20 Q. So, say, for example, a Texas</p> <p>21 Board of Pharmacy had a peculiar requirement.</p> <p>22 You would make sure that that -- that</p> <p>23 Walmart's overarching national policies could</p> <p>24 fit that specific Texas policy?</p> <p>25 MS. TABACCHI: Object to the</p>

Page 74	Page 76
<p>1 form.</p> <p>2 Q. (BY MR. INNES) Is that a fair</p> <p>3 understanding? Or ...</p> <p>4 A. To make sure that we knew what</p> <p>5 Texas requirements were. As we set our</p> <p>6 overarching policy, did it meet that or did</p> <p>7 we need to carve Texas out and have a</p> <p>8 separate policy for Texas.</p> <p>9 Q. During your tenure as senior</p> <p>10 director of regulatory affairs, were there</p> <p>11 any times in which you made adjustments to</p> <p>12 the licensing of the facilities that were</p> <p>13 distributing Schedule IIs?</p> <p>14 MS. TABACCHI: Object to the</p> <p>15 form.</p> <p>16 THE WITNESS: Can you define</p> <p>17 "adjustment"?</p> <p>18 Q. (BY MR. INNES) Did you go</p> <p>19 through an application process?</p> <p>20 MS. TABACCHI: Object to the</p> <p>21 form.</p> <p>22 THE WITNESS: My team was</p> <p>23 responsible for applications and</p> <p>24 licenses. And so I don't know that we</p> <p>25 made any new application. We would</p>	<p>1 So -- so accuracy was first at</p> <p>2 the level of the specialist.</p> <p>3 I don't know that we ever had a</p> <p>4 significant -- I don't recall a</p> <p>5 significant licensing issue, that I</p> <p>6 can speak to.</p> <p>7 Q. (BY MR. INNES) Yeah, to be</p> <p>8 clear, I'm not trying to play gotcha. I'm</p> <p>9 just trying to figure out what the chain of</p> <p>10 command is for maintaining the license for --</p> <p>11 and I'm going to be specific -- for 6045.</p> <p>12 If a change was made or a form</p> <p>13 was filled out to maintain that license,</p> <p>14 whose ultimate responsibility was it for the</p> <p>15 accuracy of that form?</p> <p>16 MS. TABACCHI: Object to the</p> <p>17 form.</p> <p>18 THE WITNESS: The licensing</p> <p>19 manager was responsible for the</p> <p>20 accuracy of her work and the team's</p> <p>21 work.</p> <p>22 I guess ultimately they</p> <p>23 reported to me. I mean, so they</p> <p>24 reported to me.</p> <p>25 MR. INNES: Okay. Thank you.</p>
<p>1 have gone through a relicensing or</p> <p>2 reregistration process.</p> <p>3 Q. (BY MR. INNES) And during that</p> <p>4 time period, you would make sure that the</p> <p>5 information that was required for those</p> <p>6 licenses was accurate and up-to-date? Is</p> <p>7 that fair?</p> <p>8 MS. TABACCHI: Object to the</p> <p>9 form.</p> <p>10 THE WITNESS: I didn't -- I had</p> <p>11 a team that was responsible for</p> <p>12 licensing, and so they had a process.</p> <p>13 If there was -- I didn't look at every</p> <p>14 license or every application to -- I</p> <p>15 didn't look at every form that we</p> <p>16 submitted.</p> <p>17 Q. (BY MR. INNES) If there was an</p> <p>18 error on one of those forms, who would be</p> <p>19 responsible for that error?</p> <p>20 MS. TABACCHI: Object to the</p> <p>21 form.</p> <p>22 THE WITNESS: We had licensing</p> <p>23 specialists that were responsible for</p> <p>24 the accuracy of their work. They</p> <p>25 reported to a licensing manager.</p>	<p>1 So July 11th, you take over senior</p> <p>2 director of compliance and quality</p> <p>3 assurance. Is that right?</p> <p>4 THE WITNESS: Yes.</p> <p>5 Q. (BY MR. INNES) And how long</p> <p>6 did you hold that title?</p> <p>7 A. Seven months.</p> <p>8 Q. And what were your</p> <p>9 responsibilities --</p> <p>10 A. Five months.</p> <p>11 Q. Okay.</p> <p>12 A. Five months.</p> <p>13 Q. And what were your</p> <p>14 responsibilities during that five-month time</p> <p>15 period?</p> <p>16 A. The role was more around</p> <p>17 Walmart -- other compliance work, so where we</p> <p>18 had practice of pharmacy in my regulatory</p> <p>19 affairs work. This was things like HIPAA</p> <p>20 compliance, billing compliance.</p> <p>21 I also had -- that's when I</p> <p>22 first picked up the quality assurance team.</p> <p>23 Q. And this is around the time</p> <p>24 period I think we were discussing</p> <p>25 Just Culture; is that right?</p>

<p style="text-align: right;">Page 78</p> <p>1 A. Just Culture had been 2 introduced as a concept just prior to this 3 time, so around the 2010 time period. 4 Q. Okay. 5 A. Maybe early 2011. 6 Q. Did you have any 7 responsibilities in this -- in that role at 8 that time regarding the Controlled Substances 9 Act?</p> <p>10 MS. TABACCHI: Object to the 11 form.</p> <p>12 THE WITNESS: The team 13 conducted -- so we had a -- the role 14 of this team was to ensure that we had 15 an effective compliance program. And 16 part of that responsibility was 17 monitoring that was conducted.</p> <p>18 So the team conducted or 19 coordinated audits of a statistical 20 number of pharmacies to ensure that 21 they were following our policies and 22 procedures related to security of the 23 pharmacy. That I recall, that was the 24 extent of their involvement in 25 something that would touch controlled</p>	<p style="text-align: right;">Page 80</p> <p>1 have audited that policy, compliance with 2 that policy. 3 Q. Okay. And could these policies 4 be like, for instance, logistics policies 5 related to the picking process and order 6 filling process?</p> <p>7 MS. TABACCHI: Object to the 8 form.</p> <p>9 THE WITNESS: No. This was 10 specific to the pharmacy -- 11 MR. INNES: Okay. 12 THE WITNESS: -- operations. 13 Q. (BY MR. INNES) So in that role 14 you had no responsibilities regarding the 15 distribution facilities themselves?</p> <p>16 MS. TABACCHI: Object to the 17 form.</p> <p>18 THE WITNESS: No. 19 Q. (BY MR. INNES) It's a bad 20 question. These folks were doing -- the 21 folks that these -- 22 Well, we can strike that. 23 In your role as senior director 24 of compliance and quality assurance, what 25 responsibilities, if any, did you have over</p>
<p style="text-align: right;">Page 79</p> <p>1 substances.</p> <p>2 MS. TABACCHI: Mike, whenever 3 you get to a good point for a break, 4 let me know. I was trying to let you 5 get through the employment history, 6 but I'm not sure I'm going to make it. 7 So just at a good point for you.</p> <p>8 MR. INNES: Maybe we'll just 9 finish this role.</p> <p>10 MS. TABACCHI: Okay. Sure.</p> <p>11 MR. INNES: It's a five-month 12 role, so maybe we can fly through it.</p> <p>13 Q. (BY MR. INNES) And the 14 security of the pharmacies, is that -- that 15 involves physical security of the plant. Is 16 that what you mean?</p> <p>17 A. Physical security.</p> <p>18 They also -- some of the other 19 survey questions would be were they following 20 other policies that might touch on -- when I 21 think about security -- security of 22 controlled substances, that would be 23 included.</p> <p>24 So as to a policy that related 25 to a controlled substance, they -- they may</p>	<p style="text-align: right;">Page 81</p> <p>1 DC 6045?</p> <p>2 A. None that I can recall.</p> <p>3 MR. INNES: Okay. Let's go off 4 the record. Take a short break.</p> <p>5 THE VIDEOGRAPHER: 9:57. We 6 are off the video record.</p> <p>7 (Recess taken, 9:57 a.m. to 8 10:09 a.m.)</p> <p>9 THE VIDEOGRAPHER: 10:09. We 10 are on video record.</p> <p>11 (Whereupon, Deposition Exhibit 12 Walmart-Hiland 1, 12-4-07 email from 13 Jimmie Sherl to Mike Mullin. Subj: 14 DEA Scheduled Visit of DC 6045 120507. 15 WMT_MDL_000054021-54022, was marked 16 for identification.)</p> <p>17 Q. (BY MR. INNES) Okay.</p> <p>18 Ms. Hiland, we're back. You've been handed 19 what's been marked as Exhibit 1. I'll give 20 you a few minutes to review it.</p> <p>21 When you're ready, let me know 22 but, for the record, let me read in the Bates 23 number. It's a Walmart document beginning 24 with 54021 and ending in 54022.</p> <p>25 [Document review.]</p>

<p>Page 82</p> <p>1 Q. (BY MR. INNES) All set?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. So when we broke, you</p> <p>4 were talking about your role -- well --</p> <p>5 between '05 and '09. And -- I'm sorry, and I</p> <p>6 don't believe that you said you had any</p> <p>7 responsibility over DC 6045. Is that right?</p> <p>8 Between '05 and '09?</p> <p>9 A. Yes.</p> <p>10 Q. That's right?</p> <p>11 A. Direct responsibility.</p> <p>12 Q. Okay.</p> <p>13 So this email that's marked as</p> <p>14 Exhibit 1 is from Jimmie Sherl. It's dated</p> <p>15 December 4th, 2007. Sent to Mike Mullin.</p> <p>16 And you are copied along with Monty Mason.</p> <p>17 The subject of the email is</p> <p>18 "DEA scheduled visit of DC 6045, 120507.</p> <p>19 Which, I think, based on this email, means</p> <p>20 December 5th, 2007.</p> <p>21 Why is it that you're getting</p> <p>22 an email regarding a DEA scheduled visit to</p> <p>23 DC 6045 in 2007, if you don't have</p> <p>24 responsibility for DC 6045?</p> <p>25 MS. TABACCHI: Object to the</p>	<p>Page 84</p> <p>1 more of an informal structure?</p> <p>2 A. That's the way that I recall</p> <p>3 it.</p> <p>4 Q. I think we've provided you with</p> <p>5 what was marked as the 30(b)(6) Exhibit 7.</p> <p>6 So you'll recognize this from</p> <p>7 yesterday. It was the binder that my</p> <p>8 colleague, Mr. Bower, went through quite a</p> <p>9 bit.</p> <p>10 I'm going to ask you to turn</p> <p>11 to --</p> <p>12 If you could go to tab 1. The</p> <p>13 first tab of the binder.</p> <p>14 And let's turn all the way to</p> <p>15 the page with the bullets on it we spent some</p> <p>16 time on yesterday.</p> <p>17 Okay. So just want you to have</p> <p>18 that as a reference for the next questions.</p> <p>19 In 2007, there were no written</p> <p>20 policies regarding the DC facility employees'</p> <p>21 review of Schedule II orders. Is that right?</p> <p>22 MS. TABACCHI: Object to the</p> <p>23 form. Lack of foundation.</p> <p>24 THE WITNESS: Not that I'm</p> <p>25 aware of, no.</p>
<p>Page 83</p> <p>1 form.</p> <p>2 THE WITNESS: So at this time,</p> <p>3 to the best of my recollection, my</p> <p>4 alignment likely included Arkansas.</p> <p>5 And so where there was a regulatory</p> <p>6 visit related to Arkansas, that may</p> <p>7 have been the reason. The other</p> <p>8 reason I was -- while I was a peer to</p> <p>9 the other directors, I was -- I had</p> <p>10 been there the longest, so I was kind</p> <p>11 of the de facto lead for the team.</p> <p>12 We didn't have the senior</p> <p>13 director role at that point, and so I</p> <p>14 was the longest tenured director, and</p> <p>15 so I would take the lead on certain</p> <p>16 things.</p> <p>17 Q. (BY MR. INNES) Okay. So sort</p> <p>18 of the first among equals kind of thing? Is</p> <p>19 that how you describe that?</p> <p>20 MS. TABACCHI: Object to the</p> <p>21 form.</p> <p>22 MR. INNES: I can strike that.</p> <p>23 Q. (BY MR. INNES) In -- there was</p> <p>24 no formal Walmart hierarchy that placed you</p> <p>25 in a position to lead those folks. This was</p>	<p>Page 85</p> <p>1 Q. (BY MR. INNES) In fact, if you</p> <p>2 look at 30(b)(6), Exhibit 7, tab 1, which are</p> <p>3 the responses that were provided to</p> <p>4 plaintiff's combined discovery requests, the</p> <p>5 first bullet reads, "From as early as 1994</p> <p>6 until 2010, employees in Walmart's pharmacy</p> <p>7 distribution centers reviewed controlled drug</p> <p>8 stock exception reports, followed up on</p> <p>9 orders by speaking with pharmacists and</p> <p>10 escalate issues to market and/or regional</p> <p>11 leadership as needed to investigate orders</p> <p>12 and/or resolve concerns."</p> <p>13 Is that accurate?</p> <p>14 MS. TABACCHI: Object to the</p> <p>15 form.</p> <p>16 THE WITNESS: Yes.</p> <p>17 Q. (BY MR. INNES) You understand</p> <p>18 that during that time period, that's an</p> <p>19 accurate statement of Walmart's policy;</p> <p>20 right?</p> <p>21 A. Yes.</p> <p>22 Q. I'll direct your attention to</p> <p>23 the last bullet on the page. "For the entire</p> <p>24 relevant time period, employees in Walmart's</p> <p>25 pharmacy distribution centers monitored</p>

<p>1 orders."</p> <p>2 There's a parenthetical</p> <p>3 citation after that.</p> <p>4 So during this time period</p> <p>5 where the DC associates were reviewing every</p> <p>6 order that came in -- is that your</p> <p>7 understanding at the time?</p> <p>8 MS. TABACCHI: Object to the</p> <p>9 form. Lack of foundation.</p> <p>10 THE WITNESS: They were</p> <p>11 reviewing orders and -- and looking --</p> <p>12 monitoring orders for anything that</p> <p>13 was out of the ordinary.</p> <p>14 Q. (BY MR. INNES) And they were</p> <p>15 reviewing orders for unusual size at that</p> <p>16 time?</p> <p>17 MS. TABACCHI: Same objections.</p> <p>18 THE WITNESS: To the extent</p> <p>19 that it was out of the ordinary, they</p> <p>20 would be monitoring those orders.</p> <p>21 Q. (BY MR. INNES) Would an order</p> <p>22 of unusual frequency be out of the ordinary?</p> <p>23 MS. TABACCHI: Same objections.</p> <p>24 THE WITNESS: So again,</p> <p>25 frequency was a little bit different</p>	<p>Page 86</p> <p>1 Q. (BY MR. INNES) I'm sorry, let</p> <p>2 me strike that.</p> <p>3 The first bullet under the</p> <p>4 first full sentence says, "Since 12-01-2005</p> <p>5 DC 6045 has filed 37 106s In-Transit Losses,</p> <p>6 Concealed Vendor shortages, and Unaccounted</p> <p>7 for shortages @ the DC."</p> <p>8 Second bullet continues, "We</p> <p>9 have shipped over 6,700,000 Bottles of</p> <p>10 Schedule II narcotics in 443,000 cases to</p> <p>11 Walmart Pharmacies during this same time</p> <p>12 period."</p> <p>13 Is it a fair reading that the</p> <p>14 same time period is the -- since 12-1-2005</p> <p>15 until on or about the writing of this email?</p> <p>16 Is that your understanding of</p> <p>17 the time period?</p> <p>18 MS. TABACCHI: Object to the</p> <p>19 form. Lack of foundation.</p> <p>20 THE WITNESS: Based on the</p> <p>21 information in this email, it looks</p> <p>22 like Jimmie is referring to the time</p> <p>23 period since 12-05.</p> <p>24 Q. (BY MR. INNES) So in that</p> <p>25 two-year time period, Walmart employees at</p>
<p>Page 87</p> <p>1 in our scenario because of the way</p> <p>2 that the ordering process occurred for</p> <p>3 individual stores. They had access --</p> <p>4 or the frequency issue would alert, in</p> <p>5 this case, to orders outside of the</p> <p>6 normal scheduled day of the week that</p> <p>7 was set for that pharmacy, and they</p> <p>8 had -- they had view to those.</p> <p>9 Q. (BY MR. INNES) Okay. Turning</p> <p>10 back to what's been marked as Exhibit 1,</p> <p>11 Mr. Sherl writes to you and others saying</p> <p>12 that, "In reviewing of and in preparation for</p> <p>13 the upcoming DEA visit scheduled for</p> <p>14 12-05-2007, I've compiled the following</p> <p>15 information."</p> <p>16 The second bullet point under</p> <p>17 that sentence says, "We have shipped over</p> <p>18 6,700,000 bottles of Schedule II narcotics in</p> <p>19 443,000 cases to Walmart pharmacies during</p> <p>20 the same time period."</p> <p>21 The time period it's referring</p> <p>22 to is the one year prior to this visit; is</p> <p>23 that right?</p> <p>24 MS. TABACCHI: Object to the</p> <p>25 form. Lack of foundation.</p>	<p>Page 89</p> <p>1 the DC are reviewing orders for Schedule II</p> <p>2 narcotics manually; is that right?</p> <p>3 MS. TABACCHI: Same objections.</p> <p>4 THE WITNESS: One of the</p> <p>5 processes in place was for a review of</p> <p>6 orders as they were being processed</p> <p>7 through the distribution center. And</p> <p>8 it was -- it was an observation as</p> <p>9 they were conducting their work.</p> <p>10 Q. (BY MR. INNES) And by</p> <p>11 "observation," you mean an order form comes</p> <p>12 in and then it is -- the DC associate reads</p> <p>13 that order form, and that's the inspection?</p> <p>14 THE WITNESS: That was --</p> <p>15 MS. TABACCHI: Same objections.</p> <p>16 THE WITNESS: That was one of</p> <p>17 the processes, as well as those</p> <p>18 associates that were in the vault</p> <p>19 picking orders and their observation</p> <p>20 through that picking process.</p> <p>21 Q. (BY MR. INNES) Okay. And</p> <p>22 their observations of that picking process</p> <p>23 being they went and selected a bottle, and</p> <p>24 they would select another bottle and they</p> <p>25 could make a comparison as to -- from</p>

<p style="text-align: right;">Page 90</p> <p>1 knowledge as to what may or may not be an 2 unusual order? Is that what you mean by the 3 picking process?</p> <p>4 MS. TABACCHI: Same objections.</p> <p>5 THE WITNESS: Yes. The order 6 filling process.</p> <p>7 Q. (BY MR. INNES) Okay. And in 8 that two-year period of time, there's 9 6,700,000 bottles of scheduled narcotics that 10 are shipped; is that right?</p> <p>11 MS. TABACCHI: Same objections.</p> <p>12 THE WITNESS: That's the amount 13 reflected in the email.</p> <p>14 MR. INNES: Totaling 443,000 15 cases.</p> <p>16 THE WITNESS: That's also in 17 the email.</p> <p>18 Q. (BY MR. INNES) So during this 19 time, this two-year time period, the DC 20 associates are tasked with reviewing the 21 orders that -- for Schedule II narcotics 22 of -- they would total 6,700,000 bottles?</p> <p>23 MS. TABACCHI: Same objections.</p> <p>24 Is there a question?</p> <p>25 MR. INNES: Yeah. I think</p>	<p style="text-align: right;">Page 92</p> <p>1 production shipments. That didn't 2 include every store.</p> <p>3 Q. (BY MR. INNES) So they are 4 reviewing orders four days a week? Is that 5 saying the same thing?</p> <p>6 MS. TABACCHI: Same objections.</p> <p>7 THE WITNESS: Yes.</p> <p>8 Q. (BY MR. INNES) When do -- what 9 time did orders come into the DC basically at 10 that period of time?</p> <p>11 MS. TABACCHI: Object to the 12 form. Lack of foundation.</p> <p>13 THE WITNESS: I don't know what 14 their shifts ran. I don't know that 15 information.</p> <p>16 Q. (BY MR. INNES) So slightly 17 different question. Not wondering what time 18 the shift of a particular employee ran, but 19 wondering what time an order could come in to 20 a DC.</p> <p>21 MS. TABACCHI: Same objections.</p> <p>22 THE WITNESS: Are you asking 23 me -- can you clarify? Time of day?</p> <p>24 MR. INNES: Yes.</p> <p>25 THE WITNESS: I don't know</p>
<p style="text-align: right;">Page 91</p> <p>1 there is.</p> <p>2 MS. TABACCHI: I can tell that 3 she's waiting for you.</p> <p>4 THE WITNESS: I didn't realize 5 there was a question.</p> <p>6 Q. (BY MR. INNES) I can read it 7 back. Sorry about that. Didn't get enough 8 sleep last night.</p> <p>9 So during this time -- I'm 10 sorry. Let me --</p> <p>11 So during this time, this 12 two-year period of time, the DC associates 13 were tasked with reviewing orders for 14 Schedule II narcotics totaling 15 6,700,000 bottles. Is that right?</p> <p>16 MS. TABACCHI: Same objections.</p> <p>17 THE WITNESS: That's reflected 18 here in this information.</p> <p>19 Q. (BY MR. INNES) And they 20 shipped four times per week; is that right?</p> <p>21 MS. TABACCHI: Same objections.</p> <p>22 THE WITNESS: Yes, that was 23 the --</p> <p>24 MR. INNES: Okay.</p> <p>25 THE WITNESS: There were four</p>	<p style="text-align: right;">Page 93</p> <p>1 that -- I don't know that information 2 specifically. It was -- it was early, 3 because it would be like a production 4 run to start the day.</p> <p>5 Q. (BY MR. INNES) So was there -- 6 I'm sorry, I didn't mean to cut you off.</p> <p>7 A. Yeah. I just -- I don't know 8 that information.</p> <p>9 Q. Okay. Maybe we can be a little 10 bit more general, then.</p> <p>11 Was there one order that was -- 12 I'm sorry, did the system work that DC 13 associates were to fill the orders that came 14 in in the morning?</p> <p>15 MS. TABACCHI: Object to the 16 form. Lack of foundation.</p> <p>17 THE WITNESS: I don't know how 18 their production -- I'm not familiar 19 with like the time schedule within the 20 distribution function.</p> <p>21 Q. (BY MR. INNES) Do you have any 22 working knowledge, as you sit here today, 23 regarding how orders were filled by the DC in 24 2007?</p> <p>25 MS. TABACCHI: Object to the</p>

<p>1 form.</p> <p>2 THE WITNESS: Can you -- can</p> <p>3 you clarify -- can you try a little</p> <p>4 clarification.</p> <p>5 MR. INNES: Absolutely.</p> <p>6 Q. (BY MR. INNES) Sitting here</p> <p>7 today, what's your understanding of how an</p> <p>8 order was filled at the DC in 2007?</p> <p>9 MS. TABACCHI: Object to the</p> <p>10 form.</p> <p>11 THE WITNESS: So my</p> <p>12 understanding is based on visits that</p> <p>13 I made to the DC. Orders came through</p> <p>14 a system that was generated by our</p> <p>15 replenishment system. Those orders</p> <p>16 were then -- DEA 222 forms were</p> <p>17 completed for those orders. Those</p> <p>18 paper orders were taken to the vault,</p> <p>19 and associates would pick based on</p> <p>20 the -- they would pick based on the</p> <p>21 information on that DEA 222.</p> <p>22 Q. (BY MR. INNES) And the orders</p> <p>23 that were generated by the replenishment</p> <p>24 system, would they come in on a rolling basis</p> <p>25 throughout the course of the day? Or was</p>	<p>Page 94</p> <p>1 title?</p> <p>2 A. I had responsibility for the</p> <p>3 quality assurance program that evolved to</p> <p>4 quality improvement program. I had</p> <p>5 responsibility for professional -- the</p> <p>6 professional relations function was largely</p> <p>7 associated with our relationships with our --</p> <p>8 with optometrists that were leasing space in</p> <p>9 our Supercenters. And I had responsibility</p> <p>10 for the health and wellness, so the broad</p> <p>11 health and wellness training function.</p> <p>12 Q. So the professional relations,</p> <p>13 that was limited to optometry?</p> <p>14 MS. TABACCHI: Object to the</p> <p>15 form.</p> <p>16 THE WITNESS: As in -- in a</p> <p>17 supervisory role, it was, so from a</p> <p>18 team makeup it was largely focused on.</p> <p>19 I individually had some</p> <p>20 responsibilities as it related to</p> <p>21 relationships with the American</p> <p>22 Pharmacists Association, for example.</p> <p>23 Q. (BY MR. INNES) So the American</p> <p>24 Pharmacists Association, that was an</p> <p>25 example -- sorry, that's an example of one of</p>
<p>Page 95</p> <p>1 there a single-shot download of the orders?</p> <p>2 MS. TABACCHI: Object to the</p> <p>3 form.</p> <p>4 THE WITNESS: I don't know that</p> <p>5 specifically.</p> <p>6 Q. (BY MR. INNES) Now let's</p> <p>7 return to your employment history. See if we</p> <p>8 can't push through that.</p> <p>9 Okay. So in July of 2011, you</p> <p>10 were the senior director of compliance and</p> <p>11 quality assurance. You held that title for</p> <p>12 about seven months? Is that what you said?</p> <p>13 Five, seven months?</p> <p>14 A. Approximately. It was from</p> <p>15 July until, in title change, February 1st of</p> <p>16 2012.</p> <p>17 Q. And how did your title change</p> <p>18 February 1st of '12?</p> <p>19 A. This is the one I can't</p> <p>20 specifically recall, but I think it was</p> <p>21 senior director of professional relations and</p> <p>22 clinical quality assurance? Clinical quality</p> <p>23 improvement?</p> <p>24 Q. And were your roles -- what was</p> <p>25 your role and responsibility under that</p>	<p>Page 97</p> <p>1 those relationships. Did you have other</p> <p>2 relationships that you were responsible for?</p> <p>3 A. In the -- within the</p> <p>4 professional relations responsibility, it was</p> <p>5 focused on professional organizations and</p> <p>6 what I would refer to as professional</p> <p>7 support.</p> <p>8 So I also managed our</p> <p>9 relationship with some of the education</p> <p>10 services, Pharmacist's Letter, that provided</p> <p>11 professional information to our pharmacists</p> <p>12 and our technicians. That's the other one</p> <p>13 that -- that kind of comes to mind for me.</p> <p>14 Q. The Pharmacist's Letter, that's</p> <p>15 an education service?</p> <p>16 A. They -- they aggregate</p> <p>17 professional information and produce a</p> <p>18 monthly newsletter.</p> <p>19 And then they also provided CE</p> <p>20 services.</p> <p>21 Q. Do you recall at any time in</p> <p>22 that role, CE -- and this is CE, continuing</p> <p>23 education?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Do you recall any time</p>

Page 98	Page 100
<p>1 during that role where continuing education 2 programs were sponsored in whole or in part 3 by a drug manufacturer?</p> <p>4 MS. TABACCHI: Object to the 5 form.</p> <p>6 THE WITNESS: Not -- not that I 7 recall.</p> <p>8 I don't know that I looked for 9 the sponsorship.</p> <p>10 Q. (BY MR. INNES) Do you recall at 11 any time during that role where continuing 12 education programs were paid for by a drug 13 manufacturer?</p> <p>14 MS. TABACCHI: Object to the 15 form.</p> <p>16 THE WITNESS: Could you 17 clarify? Specific to Pharmacist's 18 Letter?</p> <p>19 Q. (BY MR. INNES) No, specific to 20 any continuing education provided to 21 pharmacists at Walmart.</p> <p>22 A. Not that I recall.</p> <p>23 Q. Okay.</p> <p>24 Does Walmart have a policy 25 against manufacturers providing continuing</p>	<p>1 related to opioids.</p> <p>2 Q. (BY MR. INNES) You used the 3 word "practice" a few times here. Are you 4 referring to a written policy, or is that -- 5 strike that.</p> <p>6 By using the word "practice," 7 are you referring to a written policy?</p> <p>8 MS. TABACCHI: Object to the 9 form.</p> <p>10 THE WITNESS: In this case, no.</p> <p>11 Q. (BY MR. INNES) Would you agree 12 that it would be improper for a manufacturer 13 to present continuing education to a pharm -- 14 to Walmart pharmacists?</p> <p>15 MS. TABACCHI: Object to the 16 form.</p> <p>17 THE WITNESS: As a general 18 practice? I -- I don't think it's 19 totally improper.</p> <p>20 I know that there are rules 21 about whether -- whether or not 22 product information can be provided if 23 CE is granted. I'd have to know more 24 about the circumstance, because I know 25 manufacturers do sponsor continuing</p>
Page 99	Page 101
<p>1 education to -- manufacturers providing 2 continuing education to pharmacists?</p> <p>3 MS. TABACCHI: Object to the 4 form.</p> <p>5 THE WITNESS: Our practice that 6 I'm familiar with was that a 7 manufacturer supplier could not 8 provide a CE training that was closed. 9 Our -- the example that I can give 10 you, it's not related to opioids.</p> <p>11 If there was a new device, an 12 inhaler/diabetic device that was 13 coming to market and a supplier wanted 14 to do a training session, a CE 15 session, a dinner session for Walmart 16 pharmacists, we would say no. Our 17 pharmacists could attend if it was 18 open generally to any pharmacist in 19 the area that wanted to come, but ...</p> <p>20 So my answer relates to I don't 21 think that ever happened. It was our 22 practice not to allow that for 23 non-controlled substances. So I 24 don't -- I'm not aware of a time that 25 it would have applied to anything</p>	<p>1 education programs.</p> <p>2 Q. (BY MR. INNES) And Walmart 3 pharmacists are permitted to attend those 4 events so long as they're open to all 5 pharmacists, including those that don't work 6 for Walmart?</p> <p>7 MS. TABACCHI: Object to the 8 form.</p> <p>9 THE WITNESS: That's -- that's 10 my recollection of the practice that 11 we've had in place at Walmart.</p> <p>12 Q. (BY MR. INNES) Okay. Does 13 Walmart ensure that its pharmacists are 14 up-to-date with continuing education 15 requirements in the various states?</p> <p>16 A. What we -- what we track is 17 active licensure. So active licensure 18 would -- the fact that you've met the 19 requirement and hold the active license is 20 what we verify.</p> <p>21 Q. Okay. And Walmart doesn't go 22 beyond just knowing that there's an active 23 license when reviewing its pharmacists' -- 24 strike that.</p> <p>25 The only information that</p>

Page 102	Page 104
<p>1 Walmart is concerned with regarding its 2 pharmacists' licensure is that its 3 pharmacists hold an active license; is that 4 correct?</p> <p>5 MS. TABACCHI: Object to the 6 form.</p> <p>7 THE WITNESS: No. We have a 8 credentialing function that verifies 9 licensure, looks for -- I'm losing the 10 term, but OIG eligibility. Excluded 11 provider status.</p> <p>12 We have a credentialing 13 function that goes beyond just active 14 license.</p> <p>15 Q. (BY MR. INNES) Does Walmart 16 maintain -- strike that.</p> <p>17 Are Walmart pharmacists 18 required to present Walmart with proof of 19 completion for continuing education?</p> <p>20 A. Only if it's continuing 21 education that is mandated by Walmart.</p> <p>22 Q. Does Walmart have any way of 23 knowing what continuing education 24 presentations its pharmacists have attended?</p> <p>25 MS. TABACCHI: Object to the</p>	<p>1 did that include relationships with NACDS? 2 MS. TABACCHI: Object to the 3 form.</p> <p>4 THE WITNESS: I was a member of 5 the policy council at that time, but 6 that wasn't part of my -- that was an 7 assigned duty. It wasn't specific to 8 that job description.</p> <p>9 MR. INNES: Okay. Thank you.</p> <p>10 Q. (BY MR. INNES) I believe you 11 also said you had responsibilities over 12 health and wellness training in that role?</p> <p>13 A. Yes.</p> <p>14 Q. And what exactly was that?</p> <p>15 A. The training function, as to 16 working within -- in Walmart health and 17 wellness spaces that included optical and 18 pharmacy, the team that I supervised 19 developed training modules that were part of 20 the training plan for the different 21 field-based associates, as well as --</p> <p>22 And we also provided what we 23 referred to as instructor-led training that 24 was live training for our operations 25 leadership so our market directors.</p>
<p>1 form.</p> <p>2 THE WITNESS: No.</p> <p>3 Q. (BY MR. INNES) So Walmart 4 would have no way of knowing if a Walmart 5 pharmacist attended a CE conducted by a 6 pharmaceutical manufacturer?</p> <p>7 MS. TABACCHI: Object to the 8 form.</p> <p>9 THE WITNESS: Not that I'm 10 aware.</p> <p>11 Q. (BY MR. INNES) Do you think 12 that would be useful information to Walmart?</p> <p>13 MS. TABACCHI: Object to the 14 form.</p> <p>15 THE WITNESS: I don't know if I 16 have an opinion on how we would use 17 that information.</p> <p>18 Q. (BY MR. INNES) Do you include 19 the -- are you familiar with the National 20 Association of Chain Drug Stores?</p> <p>21 A. Yes.</p> <p>22 Q. In your role as senior director 23 professional relations -- I'm not sure we've 24 nailed that title down, so I'll just say the 25 title you held in 2012, did you have any --</p>	<p>1 And at one point we helped with 2 onboarding of our new regional directors, but 3 that was more individualized than the market 4 director training that we provided.</p> <p>5 Q. You used the term "field-based 6 associate." What is a field-based associate?</p> <p>7 A. Those that are working in 8 stores in the field versus the home office.</p> <p>9 Q. Are those pharmacists? 10 Pharmacists would be included as a 11 field-based associate?</p> <p>12 A. Yes.</p> <p>13 Q. Who else would be considered a 14 field-based associate?</p> <p>15 A. Our opticians, our associate 16 optometrists. Cashiers that were assigned to 17 either optical or pharmacy. Sales associates 18 that worked out on the OTC pad. Technicians. 19 Are all field-based.</p> <p>20 Q. So health and wellness training 21 provided to field-based associates, 22 operations leadership which includes market 23 directors?</p> <p>24 A. Yes.</p> <p>25 Q. And regional directors?</p>
Page 103	Page 105

Page 106	Page 108
<p>1 A. Yes.</p> <p>2 Q. Any other categories of</p> <p>3 employees that training was provided to in</p> <p>4 that role?</p> <p>5 MS. TABACCHI: Object to the</p> <p>6 form.</p> <p>7 THE WITNESS: Not at the time</p> <p>8 that I had responsibility for that</p> <p>9 team.</p> <p>10 Q. (BY MR. INNES) At the time</p> <p>11 that you had responsibility for that team,</p> <p>12 did -- I'll try to focus this a little bit --</p> <p>13 did any of the training -- was any of the</p> <p>14 training -- strike that.</p> <p>15 At the time that you had that</p> <p>16 responsibility for the team, did you provide</p> <p>17 any training related to Schedule II</p> <p>18 narcotics?</p> <p>19 MS. TABACCHI: Object to the</p> <p>20 form.</p> <p>21 THE WITNESS: We didn't -- so</p> <p>22 this team was creating training</p> <p>23 modules. We didn't create training.</p> <p>24 What we might have trained on would be</p> <p>25 Walmart's policy as it related to how</p>	<p>1 substance. What we would create was a</p> <p>2 module associated with a policy so</p> <p>3 that we could confirm that the</p> <p>4 information contained in the policy</p> <p>5 was -- was viewed, completed by the</p> <p>6 associate that needed to have that</p> <p>7 training.</p> <p>8 Q. (BY MR. INNES) Okay.</p> <p>9 A. I hope that's more clear.</p> <p>10 Q. So you're taking the policy.</p> <p>11 Then from that, you're basing your training</p> <p>12 module off the policy. Is that accurate?</p> <p>13 A. That's accurate.</p> <p>14 Q. That's accurate. Okay. And</p> <p>15 the module was accessible through the</p> <p>16 learning management system? Is that right?</p> <p>17 A. Yes.</p> <p>18 Q. And did the learning management</p> <p>19 system track who viewed that particular</p> <p>20 learning module?</p> <p>21 A. It would track -- it would</p> <p>22 track completions based on the training plan</p> <p>23 that was assigned.</p> <p>24 Q. Okay. And how -- how did --</p> <p>25 how would it track completions exactly?</p>
<p>1 we dispense controlled substances.</p> <p>2 So it's -- the example that I</p> <p>3 would give is, if a policy -- if there</p> <p>4 was a policy change related to</p> <p>5 dispensing, there might have been a</p> <p>6 module that was created or an</p> <p>7 acknowledgment that was created in our</p> <p>8 learning management system for the</p> <p>9 appropriate associate to complete.</p> <p>10 Q. (BY MR. INNES) Okay. So I just</p> <p>11 want to -- so -- I just want to make sure we</p> <p>12 have a clear record.</p> <p>13 That response started with this</p> <p>14 team -- "We didn't -- so this team was</p> <p>15 creating modules. We didn't create</p> <p>16 training."</p> <p>17 What's the difference between</p> <p>18 creating training modules and not create</p> <p>19 training?</p> <p>20 A. Yeah. So I'm --</p> <p>21 MS. TABACCHI: Object to the</p> <p>22 form.</p> <p>23 THE WITNESS: So to clarify, we</p> <p>24 didn't create content that was</p> <p>25 specific to an opioid or a controlled</p>	<p>1 A. It was a list to say, "Did you</p> <p>2 complete this module," and what date the</p> <p>3 module was completed.</p> <p>4 Q. And what does a module consist</p> <p>5 of? Is it a video or is it a PDF that's</p> <p>6 downloaded from the system?</p> <p>7 MS. TABACCHI: Object to the</p> <p>8 form.</p> <p>9 Q. (BY MR. INNES) What form does</p> <p>10 the module take?</p> <p>11 A. So it was accessible online.</p> <p>12 So it was viewable within the learning</p> <p>13 management system. But the activity could</p> <p>14 have been a PDF of the policy and then an</p> <p>15 acknowledgment that you read the policy.</p> <p>16 It could have been, depending</p> <p>17 on the subject matter, a video or an animated</p> <p>18 training. It depended on the content of the</p> <p>19 subject matter.</p> <p>20 Q. Were associates ever tested for</p> <p>21 the knowledge that they may or may not have</p> <p>22 learned based on their viewing of a module?</p> <p>23 A. Yes.</p> <p>24 Q. And when were they tested?</p> <p>25 A. It depends on the module.</p>

Page 110	Page 112
<p>1 Q. Okay.</p> <p>2 A. It could have been at the end</p> <p>3 or it could have been knowledge checks.</p> <p>4 Again, depending on how the module was built.</p> <p>5 It could have been a knowledge check along</p> <p>6 the way or it could have been a test at the</p> <p>7 end.</p> <p>8 Q. What do you mean by "a</p> <p>9 knowledge check along the way"?</p> <p>10 A. So as they're completing the</p> <p>11 information, there may have been a point in</p> <p>12 time when it said, when -- when you couldn't</p> <p>13 go any further until you acknowledged what</p> <p>14 you had learned previously in the module.</p> <p>15 Q. Okay. So at some point in time</p> <p>16 in the module, a question would pop up. And</p> <p>17 would that be a substantive question? Okay.</p> <p>18 A true-false, or a yes-no, about the material</p> <p>19 that was learned? That was presented prior</p> <p>20 to that popup?</p> <p>21 MS. TABACCHI: Object to the</p> <p>22 form.</p> <p>23 THE WITNESS: It could be --</p> <p>24 the questions that I remember, it</p> <p>25 could be true-false. It could be kind</p>	<p>1 until they registered a successful</p> <p>2 completion.</p> <p>3 Q. (BY MR. INNES) How many times</p> <p>4 were folks allowed to take a test to complete</p> <p>5 it?</p> <p>6 MS. TABACCHI: Object to the</p> <p>7 form.</p> <p>8 THE WITNESS: I don't know that</p> <p>9 there was a set number assigned. It</p> <p>10 was --</p> <p>11 They were expected to take it</p> <p>12 until they completed it. I don't know</p> <p>13 that there was a number assigned to</p> <p>14 that.</p> <p>15 Q. (BY MR. INNES) And if they</p> <p>16 didn't complete it, what would happen?</p> <p>17 A. The training associate would</p> <p>18 follow up.</p> <p>19 Q. And what would that follow-up</p> <p>20 entail?</p> <p>21 A. Reminder to complete their</p> <p>22 training.</p> <p>23 Q. And if they didn't complete it</p> <p>24 after that reminder, what would happen?</p> <p>25 A. They could be performance</p>
<p>1 Page 111</p> <p>2 of a sequencing of a process if that's</p> <p>3 what they were learning.</p> <p>4 It could be a more substantive</p> <p>5 answer than yes-no.</p> <p>6 So it depended on the content.</p> <p>7 Q. (BY MR. INNES) Was it</p> <p>8 something more than click here to continue?</p> <p>9 A. Yes, in this case.</p> <p>10 Q. Okay.</p> <p>11 And did Walmart maintain --</p> <p>12 strike that.</p> <p>13 If an associate -- if a</p> <p>14 recipient of the training either failed or</p> <p>15 did not complete the training, was there a</p> <p>16 retraining that occurred?</p> <p>17 MS. TABACCHI: Object to the</p> <p>18 form.</p> <p>19 THE WITNESS: The modules that</p> <p>20 were assigned were part of required</p> <p>21 training plan. Those were tracked at</p> <p>22 the individual store level. There are</p> <p>23 training coordinators that monitored</p> <p>24 training completions for an entire</p> <p>25 store, not just pharmacy.</p> <p>So they would have to take it</p>	<p>1 Page 113</p> <p>2 coached for failing to complete their</p> <p>3 training plan.</p> <p>4 Q. What was the next role you took</p> <p>5 on after 2012?</p> <p>6 A. So from 2012 to present, my</p> <p>7 role has evolved slightly in title.</p> <p>8 I pick -- after 20 -- so around</p> <p>9 the time of 2015, I picked up clinical</p> <p>10 services. So I think my title in or around</p> <p>11 2015 was quality improvement in clinical</p> <p>12 services, senior director.</p> <p>13 And at that time, I no longer</p> <p>14 had the training function or professional --</p> <p>15 or the optical professional relations</p> <p>16 function.</p> <p>17 Q. But otherwise, your function</p> <p>18 was the same?</p> <p>19 A. From a quality improvement it</p> <p>20 was the same. And then I took on</p> <p>21 responsibility for pharmacy clinical</p> <p>22 services.</p> <p>23 Q. And what did that entail?</p> <p>24 A. Developing and executing our</p> <p>25 immunization program, as well as our</p> <p>medication therapy management program and</p>

Page 114	Page 116
<p>1 other clinical practice services that 2 pharmacists provide.</p> <p>3 Q. Did any of those involve 4 Schedule II narcotics?</p> <p>5 MS. TABACCHI: Object to the 6 form.</p> <p>7 THE WITNESS: No.</p> <p>8 Q. (BY MR. INNES) So in that 9 role, did you have any responsibilities 10 regarding the distribution of opioids?</p> <p>11 A. I had no direct responsibility 12 at that time.</p> <p>13 Q. Did you have any responsibility 14 over the dispensing of opioids?</p> <p>15 MS. TABACCHI: Object to the 16 form.</p> <p>17 THE WITNESS: I had 18 responsibility for the quality 19 improvement process, which -- which 20 entailed how all prescriptions are 21 dispensed through Walmart's standard 22 operating procedures.</p> <p>23 (Whereupon, Deposition Exhibit 24 Walmart Hiland 2, 3-10-10 email chain. 25 Subj: Re: NABP VAWD Mtg.</p>	<p>1 Association of Boards of Pharmacy, and VAWD 2 is Verified Accredited Wholesale Distributor.</p> <p>3 Q. At the time of this email, I 4 think we've established that you were the 5 senior director of regulatory affairs. Is 6 that right?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And your focus in that 9 role was primarily on the practice of 10 pharmacy? Is that a fair statement?</p> <p>11 A. It was practice of pharmacy. 12 And again, because -- and I have the 13 licensing function as well --</p> <p>14 Q. Right.</p> <p>15 A. -- I believe, at this time.</p> <p>16 Q. And you were overseeing the 17 directors, Mr. Koch, Chapman, and others that 18 you mentioned during that time period?</p> <p>19 A. Yes.</p> <p>20 Q. Was Mr. Harris one of those 21 folks that you were overseeing?</p> <p>22 A. No.</p> <p>23 Q. Who was Mr. Harris?</p> <p>24 A. He was senior director of 25 pharmacy logistics.</p>
<p style="text-align: center;">Page 115</p> <p>1 WMT_MDL_000016173-16174, was marked 2 for identification.)</p> <p>3 Q. (BY MR. INNES) Ms. Hiland, 4 you've been handed what's been marked as 5 Exhibit 2.</p> <p>6 While you review it, I'll just 7 read into the record this is a Walmart 8 document ending in 1 -- beginning in 16173 9 and ending in 16174.</p> <p>10 [Document review.]</p> <p>11 Q. (BY MR. INNES) All set?</p> <p>12 A. I'm set, yes.</p> <p>13 Q. So this is an email chain. The 14 last email chain that I have is from you, 15 Susanne Hiland, to Tim Harris, sent on 16 March 10th, 2010. Subject line is "NABP VAWD 17 MTG."</p> <p>18 I believe "MTG" is an 19 abbreviation for meeting --</p> <p>20 A. Yes.</p> <p>21 Q. -- is that fair?</p> <p>22 What is the -- well, what 23 significance, if any, do the abbreviations 24 NABP and VAWD have for you?</p> <p>25 A. NABP is the National</p>	<p style="text-align: center;">Page 117</p> <p>1 Q. Did you report to Mr. Harris?</p> <p>2 A. No.</p> <p>3 Q. And did Mr. Harris report to 4 you?</p> <p>5 A. No.</p> <p>6 Q. Mr. Harris was in a different 7 business unit?</p> <p>8 A. He was a peer, and he was in 9 logistics.</p> <p>10 Q. Okay. So you'll see in the 11 middle of the page, the email is from Tim to 12 you on March 9th.</p> <p>13 The last sentence of that email 14 says, "I want to ensure my thinking is in 15 lines with the concerns that you have."</p> <p>16 You then responded to that 17 email. You said you didn't have any specific 18 concerns at that time. Right?</p> <p>19 I'm curious. The next line 20 says, "The reapplication process was clearly 21 more detailed than last time, and we've had 22 some issues that others have had that would 23 potentially be problems for us."</p> <p>24 So were you involved --</p> <p>25 MS. TABACCHI: I apologize,</p>

Page 118	Page 120
<p>1 Mike. You did misread that. Do you 2 want to read that again?</p> <p>3 Q. (BY MR. INNES) Okay. The 4 email states, "Tim, since we are just 5 beginning the process again, we don't have 6 any specific concerns yet. The reapplication 7 process was clearly more detailed than last 8 time, and we've heard some issues that others 9 have had that would potentially be problems 10 for us."</p> <p>11 The email continues, but I want 12 to focus on those first two sentences.</p> <p>13 What process are you beginning 14 again?</p> <p>15 A. The recertification of our 16 distribution center for the VAWD 17 certification.</p> <p>18 Q. And what is the -- which 19 distribution center in particular?</p> <p>20 A. I believe at this time, this 21 was recertification, so all of them?</p> <p>22 I -- I'd have to check their 23 certification dates, but all of our 24 distribution centers were VAWD certified. I 25 just don't know what their original</p>	<p>1 Q. And that new information and 2 new requirements then were applied to the 3 previous certification. Is it -- was it your 4 understanding at the time that others have 5 had problems that would potentially be 6 problems for Walmart?</p> <p>7 MS. TABACCHI: Object to the 8 form.</p> <p>9 THE WITNESS: I see that in the 10 email. And my recollection was that 11 recertification across the industry 12 was -- it was a more stringent 13 process, so it was applying to anyone 14 that was VAWD certified.</p> <p>15 Q. (BY MR. INNES) What's your 16 basis for the statement is more stringent?</p> <p>17 A. Because of the -- because of 18 the statement that there was more information 19 in the recertification in that application.</p> <p>20 Stringent, extensive. It was 21 a -- it was a more expansive process.</p> <p>22 Q. Why did Walmart seek 23 certification -- seek VAWD certification of 24 its distribution facilities?</p> <p>25 A. At the initial certification,</p>
Page 119	Page 121
<p>1 certification dates were.</p> <p>2 Q. Okay. I mean, at this time, 3 can we agree that the 6045 was VAWD 4 certified?</p> <p>5 A. Yes.</p> <p>6 Q. Were you involved in the prior 7 application process?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And you say that the 10 reapplication process, the process you're 11 going through at this point in time, was 12 clearly more detailed than the last time.</p> <p>13 What was the basis for that 14 statement?</p> <p>15 A. We, by this time, would have 16 had the -- there was an application process, 17 or there were documents that were required 18 with the certification, recertification of 19 our distribution centers. And the -- to 20 my -- to my recollection, the information 21 that was asked for in that recertification 22 was more expansive than -- it included new 23 information, new requirements, than were 24 applied to the previous certification 25 process.</p>	<p>1 VAWD generally is related to the operations 2 of the distribution center. And the state of 3 Florida first required a VAWD certification 4 to ship product into the state. Other states 5 followed, and so it was a requirement of 6 ongoing business.</p> <p>7 Q. (BY MR. INNES) Do you recall 8 attending this NABP VAWD meeting that's 9 referenced in this email?</p> <p>10 A. I don't recall attending.</p> <p>11 Q. Your email goes on to state, "I 12 think the goal is to listen and see what we 13 can learn from the other participants and 14 also if there is anything specific about the 15 inspection procedures that we need to know."</p> <p>16 I guess I'll start with the 17 question. Did you in fact listen or speak 18 with any of the other participants regarding 19 those issues?</p> <p>20 MS. TABACCHI: Object to the 21 form.</p> <p>22 THE WITNESS: I don't think I 23 was present.</p> <p>24 Q. (BY MR. INNES) Do you know if 25 Mr. Harris was present?</p>

Page 122	Page 124
1 A. I don't know specifically, but 2 he's on the attendee list later in the email. 3 Q. Did you have occasion to speak 4 with Mr. Harris about this meeting after it 5 occurred? 6 A. I don't recall a specific 7 conversation with him about it. 8 Q. You said, "Last time it was 9 more of a tour of the facility than an 10 inspection." 11 Who toured the facility? 12 A. The process of certification 13 was an on-site visit to the facility. So 14 there was a VAWD inspector working on behalf 15 of NABP that came to the facility. 16 Q. And that was the first -- the 17 first application we were talking about? 18 A. Yes. 19 Q. So it was one attendee by -- of 20 a VAWD inspector? 21 MS. TABACCHI: Object to the 22 form. 23 THE WITNESS: Yes. 24 Q. (BY MR. INNES) Do you recall 25 if there was a tour of the facility during	1 said, "I wouldn't necessarily bring this up, 2 but if they discuss anything about continuing 3 education programs for our DRs, I would like 4 to know what they consider acceptable 5 programs." 6 First off, why are you 7 suggesting that Mr. Harris not specifically 8 or necessarily bring that topic up? 9 A. I don't recall specifically. I 10 think we had access to some training, but we 11 weren't members of HDMA, so -- so some of the 12 training that might have applied to this 13 certification might not have been available 14 to us. 15 I don't know that it was all 16 that important and not a significant concern. 17 That's what I recall about that 18 continuing education. I don't recall if 19 there's anything else that I had in mind at 20 that time. 21 Q. So based on that, is it 22 possible you didn't want to call attention to 23 the fact that Walmart wasn't a member of the 24 HDMA and therefore might not have some of the 25 training that could be applied to the VAWD
Page 123	Page 125
1 the reapplication process? 2 A. I don't recall the specifics, 3 but I -- I know we prepared materials, so it 4 would follow that there was an on-site 5 inspection. I don't recall the specifics of 6 who or how many. 7 Q. And the facility that was 8 inspected, is that referring to 6045? 9 MS. TABACCHI: Object to the 10 form. 11 THE WITNESS: That would be any 12 of the -- any of the distribution 13 centers that went through the 14 reaccreditation process. 15 Q. (BY MR. INNES) Okay. And then 16 your prior testimony is that all of the 17 distribution centers went through the 18 reaccreditation process? 19 A. Yes. 20 Q. So is it fair to say that if 21 they all went through them, and there were 22 inspections of all of them, 6045 was in fact 23 inspected? 24 A. Yes. 25 Q. Further on in your email you	1 certification? 2 MS. TABACCHI: Object to the 3 form. 4 THE WITNESS: No. I'm -- what 5 I'm saying is I -- I don't know that 6 this was a significant issue for us. 7 There was other training that was 8 available. And in this setting where 9 there's HDMA participants, I don't 10 know that that topic was applicable to 11 everyone. 12 Is that what I recall about 13 that. 14 Q. (BY MR. INNES) Well, 15 Mr. Harris is emailing you about attending a 16 meeting, is wondering what your concerns are, 17 and wants to make sure that you both share 18 the same concerns. The VAWD accreditation 19 process is a -- is important to Walmart so it 20 can continue do business in states that 21 require it. Right? 22 A. Yes. 23 Q. And you want to make sure that 24 when you go to these -- when you attend a 25 VAWD meeting discussing reapplication, that

<p style="text-align: right;">Page 126</p> <p>1 Walmart doesn't set off any flags that it 2 might not be capable of accreditation with 3 VAWD. Is that right?</p> <p>4 MS. TABACCHI: Object to the 5 form.</p> <p>6 THE WITNESS: That's not what I 7 mean by that.</p> <p>8 Q. (BY MR. INNES) Did you come to 9 learn what VAWD would consider to be 10 acceptable programs?</p> <p>11 A. Our pharmacy -- our 12 distribution centers were reaccredited. So 13 we would have met the criteria required by 14 the VAWD certification. At no time in this 15 process were we unaccredited. The point of 16 this was to make sure that we were prepared 17 and had as much information as possible to 18 prepare for that recertification process.</p> <p>19 Q. How long did that 20 recertification process take?</p> <p>21 A. I think in this case there 22 was -- I think there were some delays as 23 we -- again, because there were additional 24 documentation requirements. I don't remember 25 specifically what those were. I think it was</p>	<p style="text-align: right;">Page 128</p> <p>1 another document.</p> <p>2 MR. INNES: Yeah, we can take a 3 break.</p> <p>4 THE VIDEOGRAPHER: 11:11 a.m. 5 we are off the video record.</p> <p>6 (Recess taken, 11:11 a.m. to 7 11:24 a.m.)</p> <p>8 THE VIDEOGRAPHER: 11:25. We 9 are on the video record.</p> <p>10 Q. (BY MR. INNES) Okay. 11 Ms. Hiland, we're back. In response to my 12 last question before the break, you 13 referenced "written policies memorialized 14 around practices we had in place in this time 15 frame."</p> <p>16 Do you -- can you describe 17 those written policies? What they were 18 exactly?</p> <p>19 A. I don't recall exactly. There 20 were -- VAWD is focused on general 21 distributions, so there were -- there were 22 policies that touched on various topics. I 23 don't recall exactly all that was included in 24 the recertification.</p> <p>25 Q. You said "VAWD is focused on</p>
<p style="text-align: right;">Page 127</p> <p>1 a longer recertification process in this time 2 frame.</p> <p>3 Q. What do you mean by 4 "documentation requirements"?</p> <p>5 A. So documenting practices in -- 6 in a policy that could be reflected and 7 inspected by the VAWD inspector.</p> <p>8 Q. Okay. So at the time of the 9 reapplication process, did Walmart have its 10 practices documented in a policy that could 11 be reviewed by the VAWD inspector?</p> <p>12 MS. TABACCHI: Object to the 13 form.</p> <p>14 THE WITNESS: As I recall, 15 there were -- there were written 16 policies memorialized around practices 17 that we had in place in this time 18 frame as a result -- to meet those 19 recertification -- those new 20 recertification requirements.</p> <p>21 MS. TABACCHI: Mike, before you 22 get to another document, can we take 23 another quick break?</p> <p>24 I just don't want to get -- I 25 want to catch you before you start</p>	<p style="text-align: right;">Page 129</p> <p>1 general distributions." What's the basis for 2 that statement?</p> <p>3 A. It was established to ensure 4 that there was -- there was no adulterated 5 product entering into the supply chain, or -- 6 And so -- so from a general 7 distribution pharmaceuticals, that's what I 8 was referring to.</p> <p>9 Q. Okay. Are you referring to any 10 written policies that relate specifically to 11 the distribution of Schedule II narcotics?</p> <p>12 MS. TABACCHI: Object to the 13 form.</p> <p>14 THE WITNESS: The -- the 15 recertification, I know that there 16 were policies that reflected 17 distribution of controlled substances. 18 And there were other broader policies 19 around distribution of pharmaceuticals 20 in general.</p> <p>21 Q. (BY MR. INNES) Okay. But 22 specific written policies at that time period 23 related to Schedule II narcotics. Are you 24 aware of any? Or were you referring to any?</p> <p>25 MS. TABACCHI: Object to the</p>

Page 130	Page 132
<p>1 form.</p> <p>2 THE WITNESS: The order</p> <p>3 monitoring policy was part of the --</p> <p>4 part of the set of logistics policies</p> <p>5 that we have in place.</p> <p>6 Q. (BY MR. INNES) What order</p> <p>7 monitoring policy are you referring to?</p> <p>8 A. I don't know that -- I don't</p> <p>9 know the number specifically. That may be in</p> <p>10 an exhibit.</p> <p>11 That's one -- the order</p> <p>12 monitoring policy is one of the policies that</p> <p>13 we submitted with our VAWD application, along</p> <p>14 with multiple other policies.</p> <p>15 Q. So we're in the -- we are in</p> <p>16 the 2010 time period; right?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. I notice that you were</p> <p>19 looking at was Exhibit 7 in your deposition</p> <p>20 yesterday. Is there anything you want to</p> <p>21 look at in there that would help refresh your</p> <p>22 recollection?</p> <p>23 You can take as much time as</p> <p>24 you want.</p> <p>25 A. I know we have a policy around</p>	<p>1 A. Yes.</p> <p>2 Q. Okay. And when, to the best of</p> <p>3 your knowledge, was that submission made?</p> <p>4 A. I don't recall that.</p> <p>5 Q. But you do recall the policy --</p> <p>6 or the document ending 11106 being likely</p> <p>7 included as part of that application?</p> <p>8 A. That's the best of my</p> <p>9 recollection.</p> <p>10 (Whereupon, Deposition Exhibit</p> <p>11 Walmart Hiland 3, 10-4-11 email from</p> <p>12 Susanne Hiland. Subj: Significant</p> <p>13 Loss Guidelines - Confidential - Do</p> <p>14 Not Forward. WMT_MDL_000040775-40779,</p> <p>15 was marked for identification.)</p> <p>16 Q. (BY MR. INNES) Okay. While</p> <p>17 you review that, Ms. Hiland, I'll just read</p> <p>18 into the record, this is -- what's been</p> <p>19 marked as Exhibit 3 is a Walmart document</p> <p>20 ending -- beginning in 40775. It has, I</p> <p>21 believe, an attachment here that ends in</p> <p>22 40779.</p> <p>23 [Document review.]</p> <p>24 THE WITNESS: Can I consult</p> <p>25 with --</p>
<p>1 distribution.</p> <p>2 So tab 2 is the -- is one of</p> <p>3 the policies as -- that would have been</p> <p>4 included in the recertification process for</p> <p>5 our distribution centers.</p> <p>6 Q. And it's -- so you're</p> <p>7 referring, just for the record, Exhibit 7 of</p> <p>8 the 30(b)(6) deposition, at tab 2, which is</p> <p>9 Walmart document ending 11106. It's a</p> <p>10 one-page document.</p> <p>11 And I just want to be sure I'm</p> <p>12 clear on the time frame. We're talking about</p> <p>13 policies that were in place in or around</p> <p>14 March of 2010?</p> <p>15 MS. TABACCHI: Object to the</p> <p>16 form.</p> <p>17 THE WITNESS: I'm talking about</p> <p>18 the VAWD recertification process. As</p> <p>19 we -- as we went through that</p> <p>20 recertification process, that's what</p> <p>21 I'm referring to.</p> <p>22 Q. (BY MR. INNES) Okay. So</p> <p>23 the -- are you referring to documents that</p> <p>24 were ultimately submitted as part of the</p> <p>25 recert -- or reapplication process?</p>	<p>1 MS. TABACCHI: Oh. Is there</p> <p>2 something --</p> <p>3 THE WITNESS: I don't know.</p> <p>4 Can I consult with Tina?</p> <p>5 I don't know if that applies</p> <p>6 because of the document.</p> <p>7 MS. TABACCHI: The only</p> <p>8 circumstance under which you may speak</p> <p>9 with me is if you're concerned that</p> <p>10 the document's privileged or that the</p> <p>11 question that I guess you don't have</p> <p>12 yet is privileged. So do you want to</p> <p>13 wait until Mr. Innes asks a question</p> <p>14 and then we can take it from there?</p> <p>15 THE WITNESS: Okay. My -- just</p> <p>16 based on the way the document is</p> <p>17 marked. At the bottom of page 2.</p> <p>18 MS. TABACCHI: Okay.</p> <p>19 So I didn't realize, Michael,</p> <p>20 when you read this, but at the bottom</p> <p>21 of the document, it says "Privileged</p> <p>22 and confidential: Prepared at the</p> <p>23 direction of counsel." So do you mind</p> <p>24 if I talk to the witness about this</p> <p>25 document?</p>

<p>1 MR. INNES: So for the record, 2 we're on 40776. And there's, at the 3 bottom, a footer in italics that says 4 "Privileged and confidential: 5 prepared at the direction of counsel." 6 7 And that's the basis for your 8 question of whether or not you can 9 confer with counsel? 10 11 THE WITNESS: Yes. 12 MR. INNES: Okay. That's fine. 13 THE VIDEOGRAPHER: 11:33. We 14 are off the video record. 15 (Recess taken, 11:32 a.m. to 16 11:39 a.m.) 17 THE VIDEOGRAPHER: 11:39. We 18 are on the video record. 19 Q. (BY MR. INNES) Okay, 20 Ms. Hiland, we're back on the record. We 21 had -- plaintiffs had introduced an exhibit. 22 You asked to confer with your 23 counsel off the record. We've done that. 24 There's a representation off 25 the record that there needs to be some further investigation as to that particular document. Plaintiffs have agreed to not ask </p>	<p>1 Q. Okay. Let me see if I can 2 provide you with a -- some kind of reminder. 3 (Whereupon, Deposition Exhibit 4 Walmart Hiland 4, 9-27-12 email from 5 George Chapman. Subj: CII 6 utilization review. 7 WMT_MDL_000012194, was marked for 8 identification.) 9 Q. (BY MR. INNES) Okay. While 10 you review, that's just a one-page document. 11 For the record, it is Walmart document Bates 12 No. 12194. 13 [Document review.] 14 THE WITNESS: I've reviewed it. 15 Q. (BY MR. INNES) So this is an 16 email from George Chapman to you and others: 17 Greg Beam, Brandon Worth, and Tim Harris, 18 dated September 27, 2012. Subject line, 19 "C-II utilization review." 20 Does this maybe orient you 21 regarding what a C-II utilization review is? 22 A. I see the process that he's 23 outlining. I don't know that I knew that's 24 what it was called. 25 Q. At the time of this email, I </p>
<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

Page 138	Page 140
<p>1 his function.</p> <p>2 Q. Okay. And Mr. Harris?</p> <p>3 A. Tim, I believe, was -- he was,</p> <p>4 I think, senior director for logistics. Was</p> <p>5 his title.</p> <p>6 Q. So based on those titles, it</p> <p>7 looks like we've got folks from several</p> <p>8 different parts of the business on this one</p> <p>9 email where we're discussing C-II utilization</p> <p>10 review. And I think you testified you might</p> <p>11 not have known it by that name, but you</p> <p>12 understand the process. Is that right?</p> <p>13 A. Yes.</p> <p>14 Q. And what was the purpose of the</p> <p>15 process, as you understand it?</p> <p>16 A. I believe in this time frame</p> <p>17 was the process we put in place when we set</p> <p>18 the threshold limit of 20 bottles of</p> <p>19 oxycodone for logistics orders.</p> <p>20 Q. So at that time, was the</p> <p>21 process to alert for that particular product</p> <p>22 over 20 or when it was at 20?</p> <p>23 MS. TABACCHI: Object to the</p> <p>24 form.</p> <p>25 THE WITNESS: The process was</p>	<p>1 Q. According to that process?</p> <p>2 A. More than 20.</p> <p>3 Q. Okay. Is it your understanding</p> <p>4 that this utilization review -- well, strike</p> <p>5 that.</p> <p>6 In your mind, the C-II</p> <p>7 utilization review is the same as the process</p> <p>8 that's articulated in steps 1 through 4 here?</p> <p>9 MS. TABACCHI: Object to the</p> <p>10 form.</p> <p>11 THE WITNESS: I think the way</p> <p>12 he's articulating it is that the C-II</p> <p>13 utilization review is a subset of</p> <p>14 step 3. The way I'm reading this.</p> <p>15 (BY MR. INNES) Okay. And what</p> <p>16 particular language are you looking at?</p> <p>17 A. That AP would communicate --</p> <p>18 third line. "AP would communicate to the</p> <p>19 market director that a C-II utilization</p> <p>20 needed to occur."</p> <p>21 Q. Okay. So what is a C-II</p> <p>22 util -- what is a C-II utilization, then,</p> <p>23 based on that sentence?</p> <p>24 A. I don't recall specifically</p> <p>25 what was included in the review, but it</p>
<p style="text-align: center;">Page 139</p> <p>1 that we -- that the distribution</p> <p>2 center wouldn't ship more than</p> <p>3 20 bottles of oxycodone 30.</p> <p>4 Q. (BY MR. INNES) If an order</p> <p>5 came for exactly 20, would that trigger a</p> <p>6 review at that point in time?</p> <p>7 MS. TABACCHI: Object to the</p> <p>8 form.</p> <p>9 THE WITNESS: I believe -- I'm</p> <p>10 trying to think how we considered</p> <p>11 exactly 20.</p> <p>12 I think the threshold was 20,</p> <p>13 so I'd think 20 would ship. No more</p> <p>14 than 20.</p> <p>15 Q. (BY MR. INNES) Okay. Do you</p> <p>16 see halfway down the page, approximately --</p> <p>17 it says, "Plan was as follows:" And I want</p> <p>18 to direct you to No. 2.</p> <p>19 And the last part of that</p> <p>20 sentence says, "And also supply a list of any</p> <p>21 stores that ordered more than 20 bottles of</p> <p>22 any C-II item."</p> <p>23 Okay. So on that list would be</p> <p>24 orders of 21 and greater; right?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">Page 141</p> <p>1 was -- it was information that would be</p> <p>2 gathered from the market director on that</p> <p>3 particular location.</p> <p>4 Q. Can you recall what information</p> <p>5 that was?</p> <p>6 A. I don't recall specifically.</p> <p>7 In this process, the idea was</p> <p>8 understand the need for an order that was</p> <p>9 over that 20 threshold.</p> <p>10 Q. Does the C-II utilization</p> <p>11 generate a report?</p> <p>12 MS. TABACCHI: Object to the</p> <p>13 form.</p> <p>14 THE WITNESS: I don't know. I</p> <p>15 don't know what the output of that was</p> <p>16 specifically.</p> <p>17 Q. (BY MR. INNES) But there was</p> <p>18 an output?</p> <p>19 MS. TABACCHI: Object to the</p> <p>20 form.</p> <p>21 THE WITNESS: I don't know</p> <p>22 that. I don't know that I ever saw</p> <p>23 any output specific to --</p> <p>24 (BY MR. INNES) After a C-II</p> <p>25 utilization occurred, do you know what would</p>

Page 142	Page 144
<p>1 happen next?</p> <p>2 A. I --</p> <p>3 MS. TABACCHI: Object to the</p> <p>4 form.</p> <p>5 THE WITNESS: There was an</p> <p>6 asset protection process that</p> <p>7 occurred, but I don't know what the</p> <p>8 details were.</p> <p>9 Q. (BY MR. INNES) In the last</p> <p>10 sentence of the first paragraph, Mr. Chapman</p> <p>11 says, "I will be reporting to the compliance</p> <p>12 oversight committee on Friday of our</p> <p>13 progress."</p> <p>14 At that point in time, do you</p> <p>15 recall who sat on the compliance oversight</p> <p>16 committee?</p> <p>17 A. I don't. Once I left my</p> <p>18 compliance role in early 2012, I wasn't part</p> <p>19 of the compliance oversight committee.</p> <p>20 Q. But at a certain point in time,</p> <p>21 you were a member of the compliance oversight</p> <p>22 committee?</p> <p>23 A. As a member of compliance, I</p> <p>24 was -- I attended those oversight meetings in</p> <p>25 a prior role.</p>	<p>1 this case is saying, "I'm reporting."</p> <p>2 If you were reporting on an activity,</p> <p>3 you would attend. But there were --</p> <p>4 there were -- that I recall, you</p> <p>5 wouldn't just generally attend -- you</p> <p>6 had to be invited to attend and</p> <p>7 present to the committee.</p> <p>8 Q. (BY MR. INNES) Okay. So</p> <p>9 probably the exact middle of this page, this</p> <p>10 line says, "By not following the plans set</p> <p>11 forth, operations asset protection and</p> <p>12 logistics are accepting risk.</p> <p>13 "If the plan needs to be</p> <p>14 changed, then the appropriate business owners</p> <p>15 need to get together and make those</p> <p>16 decisions."</p> <p>17 What risk is Mr. Chapman</p> <p>18 referring to here?</p> <p>19 MS. TABACCHI: Object to the</p> <p>20 form.</p> <p>21 THE WITNESS: I don't know what</p> <p>22 he's referring to.</p> <p>23 Q. (BY MR. INNES) Did you ask</p> <p>24 him?</p> <p>25 A. No. I think he's making a</p>
<p style="text-align: center;">Page 143</p> <p>1 Q. Are there specific members of</p> <p>2 the oversight committee?</p> <p>3 A. As I recall, it was senior</p> <p>4 members of leadership and legal from</p> <p>5 compliance and -- senior members of</p> <p>6 leadership from compliance and the business,</p> <p>7 as well as legal.</p> <p>8 Q. And is there a difference</p> <p>9 between an attendee of those meetings and a</p> <p>10 member of the committee?</p> <p>11 MS. TABACCHI: Object to the</p> <p>12 form.</p> <p>13 THE WITNESS: That I --</p> <p>14 MR. INNES: I'm just trying to</p> <p>15 clear it up. You said you had -- my</p> <p>16 prior question was whether or not you</p> <p>17 were on the committee, and you said</p> <p>18 you'd attended meetings. I'm</p> <p>19 wondering if there's a distinction</p> <p>20 between.</p> <p>21 Can non-members of the</p> <p>22 committee attend meetings?</p> <p>23 THE WITNESS: They would attend</p> <p>24 if there -- if there was something</p> <p>25 being reported. Like where George in</p>	<p>1 statement to the other folks on --</p> <p>2 I mean, he's making a statement</p> <p>3 to operations, asset protection, and</p> <p>4 logistics that are included here.</p> <p>5 Q. And because you were not in one</p> <p>6 of those roles, you didn't have reason to</p> <p>7 know what risk they were accepting?</p> <p>8 MS. TABACCHI: Object to the</p> <p>9 form.</p> <p>10 Q. (BY MR. INNES) At this time?</p> <p>11 A. I don't know what risk he's</p> <p>12 referring to. Risk of not following a plan</p> <p>13 that we outlined, as he's represented here.</p> <p>14 I don't know what he's referring to.</p> <p>15 Q. Because the risk could</p> <p>16 potentially be that these folks are not</p> <p>17 following a plan that he's going to report to</p> <p>18 the oversight compliance committee on?</p> <p>19 MS. TABACCHI: Object to the</p> <p>20 form.</p> <p>21 THE WITNESS: That's a</p> <p>22 potential. I don't know.</p> <p>23 Q. (BY MR. INNES) Well, what was</p> <p>24 the purpose of this plan that is outlined in</p> <p>25 this email?</p>

Page 146	Page 148
<p>1 A. This was part of the program 2 that we put in place to address, enhance 3 additional monitoring of oxycodone 30, and it 4 included -- that plan included the mandatory 5 checking of prescription monitoring programs 6 when oxycodone 30 prescriptions were filled, 7 as well as a requirement for our pharmacists 8 to gain access to their state prescription 9 monitoring programs, if access was allowed at 10 the state level.</p> <p>11 Q. And why, at that time, did 12 Walmart decide that it needed additional 13 monitoring of oxycodone 30s?</p> <p>14 A. We had received information 15 from a DEA agent that oxycodone 30 was on 16 their radar to be -- I mean, just to kind of 17 simplify.</p> <p>18 That they had heightened 19 concerns about oxycodone 30. During that 20 meeting they indicated that Walmart was not a 21 focus of the concerns that they had, but we 22 wanted to proactively establish additional 23 due diligence to ensure that we didn't become 24 part of the DEA's concern around oxy 30.</p> <p>25 Q. And this plan that was outlined</p>	<p>1 Q. And if you -- if this plan 2 wasn't followed, you'd be at risk of running 3 afoul of those proactive measures.</p> <p>4 MS. TABACCHI: Object to the 5 form.</p> <p>6 THE WITNESS: I would say we'd 7 be at risk of not executing the plan 8 that had been laid out.</p> <p>9 Q. (BY MR. INNES) The plan that 10 was directed towards proactive measures to 11 make sure that oxycodone 30s were properly 12 dispensed or otherwise properly distributed?</p> <p>13 MS. TABACCHI: Object to the 14 form.</p> <p>15 THE WITNESS: That was the 16 intent of the program.</p> <p>17 MR. INNES: Why don't we do -- 18 why don't we go off the record for a 19 minute.</p> <p>20 THE VIDEOGRAPHER: 12:00 p.m. 21 We are off the video record.</p> <p>22 (Recess taken, 12:00 p.m. to 23 12:44 p.m.)</p> <p>24 THE VIDEOGRAPHER: 12:45. We 25 are on the video record.</p>
<p style="text-align: center;">Page 147</p> <p>1 was meant to make sure that you didn't 2 become -- on Walmart's -- on the DEA's radar 3 regarding oxy 30; is that fair?</p> <p>4 MS. TABACCHI: Object to the 5 form.</p> <p>6 THE WITNESS: This was meant to 7 provide proactive diligence around our 8 dispensing activities and distribution 9 activities related to oxycodone 30.</p> <p>10 Q. (BY MR. INNES) And at that 11 time, were there any other plans or processes 12 in place to provide proactive diligence 13 around dispensing activities and distribution 14 related to oxycodone 30?</p> <p>15 MS. TABACCHI: Object to the 16 form.</p> <p>17 THE WITNESS: We had other 18 policies and practices in place.</p> <p>19 Q. (BY MR. INNES) And this one in 20 particular was directed towards oxycodone 30; 21 right?</p> <p>22 A. Given the information that we 23 were provided by the DEA agent, yes, it was 24 specific to that conversation and that 25 effort.</p>	<p style="text-align: center;">Page 149</p> <p>1 Q. (BY MR. INNES) Welcome back, 2 Ms. Hiland. You're still under oath. You 3 understand that to be correct; right?</p> <p>4 A. Yes.</p> <p>5 Q. I'd like to talk a little bit 6 about the National Association of Chain Drug 7 Stores, the NACDS.</p> <p>8 Are you familiar with that 9 acronym?</p> <p>10 A. Yes.</p> <p>11 Q. And what is the NACDS?</p> <p>12 A. I would describe it as a trade 13 organization for community retail pharmacies.</p> <p>14 Q. Is Walmart a member of the 15 NACDS?</p> <p>16 A. Yes.</p> <p>17 Q. And why is Walmart a member of 18 the NACDS?</p> <p>19 A. We operate multiple pharmacies, 20 so they're -- they're a trade organization 21 that we participate in.</p> <p>22 Q. By "multiple pharmacies," you 23 mean more like 4,000 or so pharmacies; right?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Do you hold any</p>

Page 150	Page 152
<p>1 positions at the NACDS currently?</p> <p>2 A. I'm a member of the NACDS</p> <p>3 Policy Council.</p> <p>4 Q. Okay. And what do you do as a</p> <p>5 member of the NACDS Policy Council?</p> <p>6 A. I participate in phone calls</p> <p>7 and attend meetings of the policy council</p> <p>8 where we review a variety of issues that</p> <p>9 NACDS is bringing forward to its membership.</p> <p>10 Q. How long have you been a member</p> <p>11 of the policy council?</p> <p>12 A. Since late 2007.</p> <p>13 Q. And so from 2007 -- late 2007</p> <p>14 until present, you've been a member of the</p> <p>15 policy council?</p> <p>16 A. Yes.</p> <p>17 Q. At any point in time did you</p> <p>18 hold a specific title as a member of the</p> <p>19 policy council?</p> <p>20 A. I served as chair of the policy</p> <p>21 council in 2012.</p> <p>22 Q. During your time on the policy</p> <p>23 council, did you have occasion to attend</p> <p>24 meetings or telephone calls where either</p> <p>25 distribution or dispensing of opioids was</p>	<p>1 and the HDMA in support of neither party?</p> <p>2 MS. TABACCHI: Object to the</p> <p>3 form.</p> <p>4 THE WITNESS: I believe so.</p> <p>5 All the legal terminology I'm not</p> <p>6 familiar with, but I believe that's</p> <p>7 it.</p> <p>8 Q. (BY MR. INNES) And did you</p> <p>9 review that amicus brief before it was filed?</p> <p>10 A. Not that I recall.</p> <p>11 Q. Are you aware of any of the</p> <p>12 arguments put forth in that amicus brief?</p> <p>13 A. No.</p> <p>14 Q. Did the policy -- well, strike</p> <p>15 that.</p> <p>16 Was there a committee or</p> <p>17 division of the NACDS that was responsible</p> <p>18 for the filing of that amicus brief?</p> <p>19 MS. TABACCHI: Object to the</p> <p>20 form.</p> <p>21 THE WITNESS: There -- there's</p> <p>22 a legal committee that looks at --</p> <p>23 that looks at legal issues. And so I</p> <p>24 believe that's where it would have</p> <p>25 been generated from.</p>
<p>1 discussed?</p> <p>2 MS. TABACCHI: Object to the</p> <p>3 form.</p> <p>4 THE WITNESS: I don't recall</p> <p>5 specifically, but generally, yes.</p> <p>6 Q. (BY MR. INNES) So you were</p> <p>7 on -- you have attended meetings or telephone</p> <p>8 calls as a member of the policy council where</p> <p>9 opioids were discussed?</p> <p>10 A. Yes.</p> <p>11 Q. Has the NACDS put forth any</p> <p>12 public statements regarding policies directed</p> <p>13 toward the distribution of opioids?</p> <p>14 MS. TABACCHI: Object to the</p> <p>15 form.</p> <p>16 THE WITNESS: I don't know -- I</p> <p>17 don't know if they have made public</p> <p>18 statements. I'm aware that there was</p> <p>19 a brief submitted related to Masters,</p> <p>20 but I don't -- I don't know the</p> <p>21 details -- I don't recall the details</p> <p>22 of that information.</p> <p>23 Q. (BY MR. INNES) Was that the --</p> <p>24 are you referring to possibly the amicus</p> <p>25 brief that was filed on behalf of the NACDS</p>	<p>1 Page 153</p> <p>2 Q. (BY MR. INNES) Okay. And do</p> <p>3 you know who the members of the legal</p> <p>4 committee are?</p> <p>5 MS. TABACCHI: Object to the</p> <p>6 form.</p> <p>7 THE WITNESS: For Walmart, it's</p> <p>8 our in-house attorneys that have</p> <p>9 responsibility for health and</p> <p>10 wellness.</p> <p>11 Q. (BY MR. INNES) So Walmart</p> <p>12 in-house counsel are members of the NACDS</p> <p>13 legal committee? Is that right?</p> <p>14 MS. TABACCHI: Object to the</p> <p>15 form.</p> <p>16 THE WITNESS: They would</p> <p>17 participate on issues that were</p> <p>18 reviewed by the legal committee.</p> <p>19 Q. (BY MR. INNES) But they</p> <p>20 themselves are not members of the -- "They"</p> <p>21 being the Walmart in-house attorneys are not</p> <p>22 themselves members of the NACDS?</p> <p>23 MS. TABACCHI: Object to the</p> <p>24 form.</p> <p>25 THE WITNESS: No, not in the --</p> <p>not in the sense of membership. I</p>

Page 154	Page 156
<p>1 think they -- not in the sense of 2 membership.</p> <p>3 Q. (BY MR. INNES) Let me ask you 4 this way. Are you a member of the NACDS?</p> <p>5 A. By virtue of being an employee 6 of Walmart, Walmart's a member, so therefore 7 I am -- I participate. I have access to 8 information from NACDS based on Walmart's 9 membership.</p> <p>10 Q. Okay. The in-house -- Walmart 11 in-house members -- or in-house counsel that 12 you referred to earlier, do they have a 13 similar relationship with NACDS that you do?</p> <p>14 MS. TABACCHI: Object to the 15 form.</p> <p>16 THE WITNESS: No. In my 17 experience, anything that I've seen is 18 just -- it's not -- it's not a -- it's 19 not a standing committee. It's not 20 a -- something that meets regularly.</p> <p>21 I, from time to time, have seen 22 notifications come from NACDS's 23 attorney to say that there might be a 24 call specific to a legal issue or 25 something that they're raising.</p>	<p>1 Walmart that disagreed with the positions 2 taken in the amicus brief filed in Masters?</p> <p>3 MS. TABACCHI: Object to the 4 form.</p> <p>5 THE WITNESS: I'm not familiar 6 with the -- what was contained in the 7 brief, so I don't know.</p> <p>8 Q. (BY MR. INNES) Have you ever 9 reviewed the amicus brief?</p> <p>10 A. Not that I recall.</p> <p>11 Q. Are you aware in 2014 that the 12 NACDS made public statements opposing the 13 reclassification of hydrocodone?</p> <p>14 MS. TABACCHI: Object to the 15 form.</p> <p>16 THE WITNESS: I don't recall 17 specific comments. I know that 18 there -- I know there was discussion 19 about the reclassification at the 20 policy council, but I don't recall the 21 specific details.</p> <p>22 Q. (BY MR. INNES) Okay. And in 23 2014, you were a member of the policy 24 council; is that right?</p> <p>25 A. Yes.</p>
Page 155	Page 157
<p>1 Q. (BY MR. INNES) Is it your 2 understanding that someone from Walmart 3 reviewed the amicus brief that was filed in 4 the Masters case?</p> <p>5 A. No.</p> <p>6 Q. And my question is prior -- is 7 prior to its filing.</p> <p>8 I can re-ask the question.</p> <p>9 A. No, I have -- I have no 10 knowledge of anyone's involvement from 11 Walmart in the amicus brief.</p> <p>12 Q. If the NACDS were to file a 13 document with a court, would someone from 14 Walmart typically review that document prior 15 to its filing?</p> <p>16 MS. TABACCHI: Object to the 17 form.</p> <p>18 THE WITNESS: Not necessarily. 19 In my experience, NACDS is not a 20 consensus organization. Therefore, 21 consent by all members is not required 22 and often not sought.</p> <p>23 Q. (BY MR. INNES) Communications 24 from the -- strike that.</p> <p>25 Are you aware of anyone at</p>	<p>1 Q. Were you involved in 2 discussions regarding the reclassification of 3 hydrocodone?</p> <p>4 MS. TABACCHI: Object to the 5 form.</p> <p>6 THE WITNESS: I participated in 7 the operations committee of -- as well 8 as policy council, but there -- there 9 are other committees.</p> <p>10 I participated in the 11 operations committee that looked at 12 operational impacts of the 13 reclassification.</p> <p>14 Q. (BY MR. INNES) The operations 15 committee was a committee separate and apart 16 from the policy council?</p> <p>17 A. Yes.</p> <p>18 Q. Do you recall what operational 19 impacts the reclassification of hydrocodone 20 were discussed at those meetings?</p> <p>21 A. There were some challenges 22 around how the -- how current stock was 23 labeled in pharmacies. So that being in a 24 pharmacy, labeled as a C-III. And if, at the 25 time of scheduling, it wasn't reclassified,</p>

Page 158	Page 160
<p>1 we were concerned about, you know, was there 2 any impact to that stock. I think that was 3 clarified by DEA. 4 The other -- some other 5 operational -- or another operational issue 6 was, I think DEA said there were 7 prescriptions at the time of the 8 reclassification that would have had refills, 9 which was allowed when it was scheduled as a 10 C-III. 11 And our system wouldn't allow 12 for the filling -- it was an operational 13 issue around what to do with the refills and 14 once the reclassification occurred. 15 Q. And as part of your -- part of 16 those conversations, did you articulate 17 Walmart's -- these operational -- strike 18 that. 19 The operational issues that you 20 just described, did you present those to the 21 operations committee? 22 MS. TABACCHI: Object to the form. 24 THE WITNESS: I didn't present 25 them. I remember them being discussed</p>	<p>1 with them personally from other work 2 that we had done. So they're easy to 3 recall. 4 Q. (BY MR. INNES) Other work you 5 had done with the NACDS or elsewhere? 6 MS. TABACCHI: Object to the form. 8 THE WITNESS: With NACDS. 9 Q. (BY MR. INNES) Okay. Let's 10 circle back to the policy council. 11 What discussions, if any, did 12 you have regarding the reclassification of 13 hydrocodone on the policy council? 14 MS. TABACCHI: Object to the form. 16 THE WITNESS: I don't recall 17 specifically. The conversations that 18 were part of the operations committee 19 would have fed into discussions with 20 the policy council, so I believe that 21 would have been part of the 22 conversation. 23 Q. (BY MR. INNES) Do you recall 24 the discussions regarding whether or not the 25 reclassification of hydrocodone would</p>
<p style="text-align: center;">Page 159</p> <p>1 in a way that was trying to problem 2 solve or understand what the impact 3 would be and how we should prepare our 4 pharmacy teams for that transition. 5 Q. (BY MR. INNES) Who were the 6 other members of the operations committee at 7 that time? 8 And I can ask that a different 9 way. 10 What other companies were 11 represented on the operations committee at 12 that time? 13 A. To my knowledge, it was open to 14 any member. I recall Walgreens, CVS, 15 Rite Aid, HEB, Costco. 16 Those are the ones that I 17 recall. There may have been others. 18 Q. Why do you recall those in 19 particular? 20 MS. TABACCHI: Object to the form. 22 THE WITNESS: I worked with 23 many of their representatives on 24 other -- they were either part of the 25 policy committee. I was just familiar</p>	<p style="text-align: center;">Page 161</p> <p>1 restrict patient access? 2 MS. TABACCHI: Object to the form. 4 THE WITNESS: I believe that 5 may have been included in some of the 6 conversation. 7 Q. (BY MR. INNES) NACDS was 8 opposed to the reclassification because of 9 increased costs. Do you agree with that? 10 MS. TABACCHI: Object to the form. 12 THE WITNESS: I don't -- I 13 don't recall the specifics. If there 14 was something to refresh my memory, I 15 could take a look at it and comment. 16 Q. (BY MR. INNES) The operational 17 issues that you discussed regarding 18 hydrocodone, did those result in -- 19 ultimately result in higher costs to Walmart? 20 MS. TABACCHI: Object to the form. 22 THE WITNESS: The specific 23 relabeling and refills, the refill 24 issues that I discussed, those were 25 just how to execute. So not</p>

Page 162	Page 164
<p>1 specifically.</p> <p>2 Q. (BY MR. INNES) So it's my</p> <p>3 understanding that Walmart -- when the</p> <p>4 rescheduling occurred, Walmart had to</p> <p>5 increase its vault size at the 6045 location;</p> <p>6 is that correct?</p> <p>7 A. That is correct. We moved all</p> <p>8 of the product from other distribution</p> <p>9 centers and started operation of --</p> <p>10 distribution of hydrocodone from that single</p> <p>11 location.</p> <p>12 Q. Okay. And when hydrocodone was</p> <p>13 rescheduled, it's also my understanding that</p> <p>14 that would -- that increased the amount of</p> <p>15 Schedule IIs that Walmart was required to</p> <p>16 review. Isn't that right?</p> <p>17 MS. TABACCHI: Object to the</p> <p>18 form.</p> <p>19 THE WITNESS: Are you referring</p> <p>20 to the dispensing function? Or</p> <p>21 distribution function?</p> <p>22 Q. (BY MR. INNES) Distribution</p> <p>23 function.</p> <p>24 MS. TABACCHI: Object to the</p> <p>25 form.</p>	<p>1 understanding that the reclassification of</p> <p>2 hydrocodone increased its street value?</p> <p>3 MS. TABACCHI: Object to the</p> <p>4 form.</p> <p>5 THE WITNESS: I don't know</p> <p>6 that. I don't have that information.</p> <p>7 (Whereupon, Deposition Exhibit</p> <p>8 Walmart Hiland 5, August 2014 email</p> <p>9 chain. Subj: FW: Hydrocodone to CII</p> <p>10 meeting 8.25.14.</p> <p>11 WMT_MDL_000047417-47419., was marked</p> <p>12 for identification.)</p> <p>13 Q. (BY MR. INNES) Okay. While</p> <p>14 you review that document, Ms. Hiland, I'm</p> <p>15 just going to note for the record that that</p> <p>16 is a Walmart document. It's been marked as</p> <p>17 Exhibit 5. Bates number is 47417, and it</p> <p>18 ends in 47419.</p> <p>19 [Document review.]</p> <p>20 THE WITNESS: I've reviewed it.</p> <p>21 Q. (BY MR. INNES) Okay. So</p> <p>22 again, this is an email from Debbie Mack to</p> <p>23 Susanne Hiland, sent on August 25th, 2014.</p> <p>24 The subject line is "FW: Hydrocodone to C-II</p> <p>25 meeting 8-25-14." There's one attachment.</p>
<p style="text-align: center;">Page 163</p> <p>1 THE WITNESS: There were more</p> <p>2 orders coming through DC '45 after the</p> <p>3 reclassification.</p> <p>4 Q. (BY MR. INNES) Did those</p> <p>5 orders result in the need to hire more</p> <p>6 personnel --</p> <p>7 MS. TABACCHI: Object to the</p> <p>8 form.</p> <p>9 Q. (BY MR. INNES) -- to review</p> <p>10 those orders?</p> <p>11 MS. TABACCHI: Lack of</p> <p>12 foundation.</p> <p>13 THE WITNESS: I don't know what</p> <p>14 the personnel impact was.</p> <p>15 Q. (BY MR. INNES) Do you agree</p> <p>16 with the statement that when the -- following</p> <p>17 the reclassification resulted in a demand</p> <p>18 value and -- increased demand value and</p> <p>19 pressure to divert that particular product?</p> <p>20 MS. TABACCHI: Object to the</p> <p>21 form.</p> <p>22 THE WITNESS: I don't know</p> <p>23 what -- I'm not sure I know what that</p> <p>24 statement means.</p> <p>25 Q. (BY MR. INNES) Is it your</p>	<p style="text-align: center;">Page 165</p> <p>1 There's a Word document that we've attached</p> <p>2 here as well.</p> <p>3 Do you recall receiving this</p> <p>4 email?</p> <p>5 A. I don't recall it specifically,</p> <p>6 but I see that it was addressed to me.</p> <p>7 Q. So you have no reason to</p> <p>8 believe you didn't receive this email?</p> <p>9 A. No.</p> <p>10 Q. Did you attend the 8-25-14</p> <p>11 meeting?</p> <p>12 A. I don't know. Since I'm not on</p> <p>13 the original distribution, and -- I'm not</p> <p>14 sure I did.</p> <p>15 Q. Okay.</p> <p>16 This would appear to be from</p> <p>17 this email, and tell me if you disagree.</p> <p>18 Miss -- I may mispronounce the last name --</p> <p>19 Tustison's? -- notes from that meeting?</p> <p>20 A. Yes, that's what it appears.</p> <p>21 Q. And just for the record, it's</p> <p>22 T-U-S-T-I-S-O-N. I may have added an extra</p> <p>23 S-.</p> <p>24 Okay. So if I could turn your</p> <p>25 attention to the second page of the document.</p>

<p style="text-align: right;">Page 166</p> <p>1 About a third of the way down the page it 2 says, "Nick --" Then it says "Nick --" again. 3 Right under that line it says, 4 "Stores are getting products from 5 DCs and 5 will go to 1 DC." 6 Is that a reference to the 7 consolidation of distribution of hydrocodone 8 from multiple DCs to the one DC, 6045? 9 A. Yes. 10 Q. Exactly halfway down the page 11 you'll see the word "Volume." It says 12 "Volume --. Go after capital funds to 13 increase the size of the vault at the -- on 14 the C-II warehouse." 15 Do you see that? 16 A. Yes. 17 Q. Okay. 18 And the C-II warehouse, again, 19 that's 6045? 20 A. Yes. 21 Q. And what's your understanding 22 of the "Go after capital funds to increase 23 the size of the vault"? What does that mean? 24 MS. TABACCHI: Object to the 25 form.</p>	<p style="text-align: right;">Page 168</p> <p>1 filed on DEA 106s." 2 Do you see that? 3 A. Yes. 4 Q. And "hydro" refers to 5 hydrocodone; is that right? 6 A. I'm assuming so, from this 7 context. 8 Q. And what's a DEA 106, do you 9 know? 10 A. It's an official DEA form to 11 report a loss of controlled substances. 12 Q. So at this time, at least 13 according to this document, hydrocodone was 14 the -- was reported, loss of controlled 15 substances. This was leading the list. This 16 is the top of the list in lost controlled 17 substances; is that right? 18 MS. TABACCHI: Object to the 19 form. Lack of foundation. 20 THE WITNESS: That's what's 21 reflected on the document. 22 Q. (BY MR. INNES) Do you have any 23 basis to disagree with that statement in this 24 document? 25 MS. TABACCHI: Same objections.</p>
<p style="text-align: right;">Page 167</p> <p>1 THE WITNESS: We have a 2 budgeting process at Walmart that's 3 approved annually. Since this was in 4 the middle of our fiscal year, 5 there -- and not preplanned, there 6 would have to be a budget request 7 made. 8 Q. (BY MR. INNES) Okay. So this 9 is essentially out of cycle, and it means 10 that you're going to have to request more 11 dollars to complete this project; is that 12 right? 13 MS. TABACCHI: Object to the 14 form. 15 THE WITNESS: Yes. The capital 16 funds request would be additional 17 funding. 18 Q. (BY MR. INNES) Who is making 19 the capital fund request, do you know? 20 A. I don't know what the process 21 was at that -- for the distribution centers. 22 Q. Okay. 23 At the bottom of the page, it 24 says "Redacted privileged." And just above 25 that it says, "Hydro still the largest drug</p>	<p style="text-align: right;">Page 169</p> <p>1 THE WITNESS: I don't have any 2 information to agree or disagree. 3 MR. INNES: Okay. 4 Q. (BY MR. INNES) Now I'll have 5 you turn to the third page of this document. 6 Middle of the way down the page 7 it says, "The price of hydrocodone will go up 8 which will increase the demand, value, and 9 pressure to divert. PC recommends locking up 10 sooner rather than later." 11 Do you know what the letters 12 "PC" stands for? 13 A. That, in this context, would be 14 practice compliance. 15 Q. And who is in charge of 16 practice compliance at -- in 2014? 17 MS. TABACCHI: Object to the 18 form. 19 THE WITNESS: The senior 20 director at that time would be George 21 Chapman. 22 Q. (BY MR. INNES) A third of the 23 way down the page it says, "What will we do 24 for potential increased diversion between now 25 and October 6th?"</p>

Page 170	Page 172
<p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. Is the implication from that</p> <p>4 that the rescheduling of hydrocodone will</p> <p>5 result in the potential for increased</p> <p>6 diversion?</p> <p>7 MS. TABACCHI: Object to the</p> <p>8 form. Lack of foundation.</p> <p>9 THE WITNESS: I think this was</p> <p>10 just like brainstorming what we needed</p> <p>11 to think about with this change</p> <p>12 coming.</p> <p>13 I think these were kind of</p> <p>14 free-form thoughts, brainstorming</p> <p>15 through this meeting.</p> <p>16 Q. (BY MR. INNES) Well, at that</p> <p>17 time, do you agree with the statement that</p> <p>18 "The potential for increased diversion</p> <p>19 between now and October 6th could occur due</p> <p>20 to the rescheduling of hydrocodone"?</p> <p>21 MS. TABACCHI: Object to the</p> <p>22 form.</p> <p>23 THE WITNESS: That wouldn't</p> <p>24 be -- that wouldn't be my train of</p> <p>25 thought in the rescheduling.</p>	<p>1 Q. (BY MR. INNES) And, yep, I</p> <p>2 fully agree that it's documented in these</p> <p>3 notes from the meeting. I'm wondering</p> <p>4 whether or not you agree or disagree with</p> <p>5 that statement?</p> <p>6 MS. TABACCHI: Object to the</p> <p>7 form. Asked and answered.</p> <p>8 THE WITNESS: That there is</p> <p>9 potential for increased diversion?</p> <p>10 Q. (BY MR. INNES) Due to the</p> <p>11 rescheduling.</p> <p>12 A. Again, my mind just doesn't</p> <p>13 think that way. I don't disagree or agree</p> <p>14 with it. I -- that's not something that I</p> <p>15 had in mind as the rescheduling was -- was</p> <p>16 occurring.</p> <p>17 Q. Okay. In your role on the</p> <p>18 policy council for NACDS, did anyone raise</p> <p>19 the issue that was raised here, that the</p> <p>20 rescheduling could result in the potential</p> <p>21 for increased diversion?</p> <p>22 A. Not that I recall.</p> <p>23 Q. In addition to you, who</p> <p>24 serves -- or who participates in the NACDS?</p> <p>25 From Walmart?</p>
<p style="text-align: center;">Page 171</p> <p>1 My mind just doesn't go to that</p> <p>2 potential, as I think about the</p> <p>3 rescheduling.</p> <p>4 Q. (BY MR. INNES) Well, why not?</p> <p>5 Why do you disagree with that</p> <p>6 statement?</p> <p>7 MS. TABACCHI: Object to the</p> <p>8 form.</p> <p>9 THE WITNESS: I don't disagree</p> <p>10 with the statement. I just don't</p> <p>11 think about it -- I don't think about</p> <p>12 it in that way. That wouldn't be one</p> <p>13 of the issues that I would think to</p> <p>14 raise in the context of the</p> <p>15 rescheduling.</p> <p>16 Q. (BY MR. INNES) But it's</p> <p>17 possible that the rescheduling could result</p> <p>18 in the potential for increased diversion?</p> <p>19 A. I think --</p> <p>20 MS. TABACCHI: Object to the</p> <p>21 form.</p> <p>22 THE WITNESS: I think somebody</p> <p>23 in this meeting has raised the issue</p> <p>24 of -- that it's possible that that</p> <p>25 could occur.</p>	<p style="text-align: center;">Page 173</p> <p>1 A. George Chapman is also a member</p> <p>2 of the policy council.</p> <p>3 Q. Okay. Any other members on the</p> <p>4 policy council?</p> <p>5 A. No. We only have -- we have</p> <p>6 two, based on company size.</p> <p>7 Q. So the member -- your</p> <p>8 participation is dictated by company size?</p> <p>9 Is that right?</p> <p>10 A. The seats that we hold on</p> <p>11 policy council are related to size of the</p> <p>12 company.</p> <p>13 Q. Okay. What other positions are</p> <p>14 held by Walmart employees at the NACDS?</p> <p>15 MS. TABACCHI: Object to the</p> <p>16 form.</p> <p>17 THE WITNESS: So can you</p> <p>18 clarify -- are you -- can you clarify</p> <p>19 what you mean by "positions"?</p> <p>20 Q. (BY MR. INNES) Are you</p> <p>21 familiar with the board -- the names of the</p> <p>22 board members of the NACDS?</p> <p>23 MS. TABACCHI: Object to the</p> <p>24 form.</p> <p>25 THE WITNESS: No.</p>

Page 174	Page 176
<p>1 Q. (BY MR. INNES) Are you -- do 2 you know if George Riedl serves on the board 3 of the NACDS?</p> <p>4 MS. TABACCHI: Object to the 5 form.</p> <p>6 THE WITNESS: Are you asking 7 for a specific time frame?</p> <p>8 Q. (BY MR. INNES) Has he ever sat 9 on the board?</p> <p>10 MS. TABACCHI: Object to the 11 form.</p> <p>12 THE WITNESS: I don't know if 13 he was a -- there's -- there's the -- 14 there's the board and there's the 15 executive committee, and I'm not 16 sure -- I'm not sure if he was 17 officially on the board.</p> <p>18 I just -- I don't know if -- I 19 know there are -- I know there were 20 other people that were voted onto the 21 board from Walmart, but I don't 22 remember whether or not George was 23 officially on the board for NACDS.</p> <p>24 Q. (BY MR. INNES) Okay. All 25 right. So what board members from Walmart</p>	<p>1 she sit on?</p> <p>2 A. She also would have -- these 3 were over different time frames. She would 4 have been board of directors as well.</p> <p>5 Q. Okay. Do you know what time 6 frame Ms. Bauza participated?</p> <p>7 MS. TABACCHI: Object to the 8 form.</p> <p>9 THE WITNESS: I don't, but I 10 believe in order it would have been 11 Carmen, George, Marybeth, with 12 Marybeth being the most recent that 13 I'm aware of.</p> <p>14 Q. (BY MR. INNES) Am I correct 15 that none of them served at the same time? 16 They served in successive terms?</p> <p>17 MS. TABACCHI: Object to the 18 form.</p> <p>19 THE WITNESS: That's what I 20 think. I don't know the workings of 21 NACDS at that level.</p> <p>22 Q. (BY MR. INNES) I'm not trying 23 to play gotcha. Just trying to get a better 24 picture of NACDS.</p> <p>25 And Ms. Bauza, Mr. Riedl and</p>
<p>1 are you aware of? At any point in time.</p> <p>2 A. Carmen Bauza was voted to the 3 board of directors at one time.</p> <p>4 I believe Marybeth Hayes was at 5 one time.</p> <p>6 Those are the ones that I 7 remember, the vote that occurred.</p> <p>8 There may have been others.</p> <p>9 And it's possible there were others, I just 10 don't recall that official participation.</p> <p>11 Q. Do you know what committees, if 12 any, Ms. Bauza sat on?</p> <p>13 A. At that level, just the board 14 of directors.</p> <p>15 Q. Do you know what committees, if 16 any, that Mr. -- is it Rye-dell?</p> <p>17 A. Ree-dul.</p> <p>18 Q. Ree-dul. Thank you.</p> <p>19 -- that Mr. Riedl sat on?</p> <p>20 A. Again, if he participated, it 21 would be at the level of board of directors.</p> <p>22 Q. And I think you mentioned one 23 other. Ms. Hayes? Is that right?</p> <p>24 A. Yes.</p> <p>25 Q. What committees, if any, did</p>	<p>1 Ms. Hayes, those were high-level positions at 2 the NACDS?</p> <p>3 MS. TABACCHI: Object to the 4 form.</p> <p>5 THE WITNESS: I think I'm 6 struggling with the idea of position. 7 We were like participants. Even -- 8 but board of directors is the highest 9 position -- highest membership 10 position that I'm aware of.</p> <p>11 Q. (BY MR. INNES) So Walmart held 12 the highest membership position that you're 13 aware of at NACDS?</p> <p>14 MS. TABACCHI: Object to the 15 form.</p> <p>16 THE WITNESS: At different 17 times.</p> <p>18 Q. (BY MR. INNES) Do you 19 participate in the RxIMPACT program?</p> <p>20 A. I have, yes.</p> <p>21 Q. And what is the RxIMPACT 22 program?</p> <p>23 A. It is an advocacy program 24 that's sponsored by NACDS.</p> <p>25 Q. And what do you mean by</p>
Page 175	Page 177

Page 178	Page 180
<p>1 "advocacy program"?</p> <p>2 A. So legislative advocacy.</p> <p>3 Meeting with legislators at either the state</p> <p>4 or federal level, to advocate for</p> <p>5 pharmacy-related issues.</p> <p>6 Q. Have you met with legislators,</p> <p>7 either the state or federal level, to</p> <p>8 advocate for pharmacy-related issues through</p> <p>9 your role at the NACDS?</p> <p>10 A. Through my participation in</p> <p>11 RxIMPACT, yes.</p> <p>12 It's a -- it's an event that</p> <p>13 occurs. And then it can -- it can apply to</p> <p>14 certain specific topics at the state level.</p> <p>15 Q. Okay. And does that -- is it</p> <p>16 certain specific topics at the federal level</p> <p>17 as well?</p> <p>18 A. There's always a -- kind of an</p> <p>19 agenda of topics to discuss, when the event</p> <p>20 is planned.</p> <p>21 Q. Does the agenda of topics of</p> <p>22 events, is it -- at any time in the past has</p> <p>23 it included opioids?</p> <p>24 MS. TABACCHI: Object to the</p> <p>25 form.</p>	<p>1 MS. TABACCHI: Object to the</p> <p>2 form.</p> <p>3 THE WITNESS: Not that I</p> <p>4 recall.</p> <p>5 Q. (BY MR. INNES) Did any of the</p> <p>6 topics address opioids' effect on national</p> <p>7 mortality rates?</p> <p>8 MS. TABACCHI: Object to the</p> <p>9 form.</p> <p>10 THE WITNESS: Not that I</p> <p>11 recall.</p> <p>12 Q. (BY MR. INNES) And you</p> <p>13 participated in the 2018 RxIMPACT day; is</p> <p>14 that right?</p> <p>15 A. Yes.</p> <p>16 Q. And during the 2018 RxIMPACT</p> <p>17 day, did you meet with any legislators?</p> <p>18 A. Yes.</p> <p>19 Q. Did you meet with any federal</p> <p>20 legislators?</p> <p>21 A. Yes.</p> <p>22 Q. And who did you meet with?</p> <p>23 A. I don't remember the list.</p> <p>24 There would be a list, because we would</p> <p>25 file -- we would file a lobbying report. But</p>
Page 179	Page 181
<p>1 THE WITNESS: I don't know if</p> <p>2 the official agenda included opioids.</p> <p>3 We, Walmart, in our participation in</p> <p>4 2018 discussed a national prescription</p> <p>5 monitoring program.</p> <p>6 I want to say we -- we would --</p> <p>7 we would look at the agenda topics and</p> <p>8 choose how we were going to address</p> <p>9 the visits that we made. And I know</p> <p>10 that on the visits that I participated</p> <p>11 in, we talked to staff and legislators</p> <p>12 about a national prescription</p> <p>13 monitoring program.</p> <p>14 Q. (BY MR. INNES) And that --</p> <p>15 what was the date of that? 2018? Is that</p> <p>16 what you said?</p> <p>17 A. That would be March of 2018.</p> <p>18 Q. Okay. Did any of the topics</p> <p>19 touch upon prescription drug abuse?</p> <p>20 MS. TABACCHI: Object to the</p> <p>21 form.</p> <p>22 THE WITNESS: Not that I</p> <p>23 recall.</p> <p>24 Q. (BY MR. INNES) Did any of the</p> <p>25 topics touch upon opioid-related deaths?</p>	<p>1 I don't know -- without some --</p> <p>2 Q. Are you registered as a</p> <p>3 lobbyist?</p> <p>4 MS. TABACCHI: Object to the</p> <p>5 form.</p> <p>6 THE WITNESS: No.</p> <p>7 Q. (BY MR. INNES) Is the NACDS</p> <p>8 registered as a lobbyist?</p> <p>9 A. I don't know.</p> <p>10 Q. But it's your understanding</p> <p>11 that a lobbying report would be filed that</p> <p>12 would include a list of those folks that you</p> <p>13 met with on that particular IMPACT day?</p> <p>14 A. I believe so. NACDS tracked</p> <p>15 all of those meetings.</p> <p>16 Q. Did you ever have discussions</p> <p>17 with folks back at Walmart about who you had</p> <p>18 met with during the RxIMPACT days?</p> <p>19 A. We worked with our DC office,</p> <p>20 our federal government affairs office on the</p> <p>21 meetings that we were having.</p> <p>22 Q. Prior to those meetings taking</p> <p>23 place, did you have meetings with -- strike</p> <p>24 that.</p> <p>25 Prior to your meetings with</p>

<p style="text-align: right;">Page 182</p> <p>1 legislators, did you meet with the federal 2 government affairs office at Walmart? 3 MS. TABACCHI: Object to the 4 form. 5 THE WITNESS: We would discuss 6 who was attending, navigating -- how 7 to navigate the Capitol, because it 8 can be very confusing. So they 9 supported us with that. 10 It was more about kind of the 11 logistics of the day, that I remember. 12 Q. (BY MR. INNES) By "navigating 13 the Capitol," I assume you mean physically 14 getting around the Capitol; right? 15 A. Yes. 16 Q. Are you familiar with the 17 NACDS's congressional testimony where they 18 reference a study that was commissioned by 19 NACDS for best practices for pharmacies 20 related to OxyContin? 21 A. I don't recall that 22 specifically. Can you orient me to date? 23 Q. The testimony was given on 24 February 12, 2002. 25 A. That was prior to my</p>	<p style="text-align: right;">Page 184</p> <p>1 had a resource related to fraud, waste, and 2 abuse training for pharmacists. 3 So I -- those are the resources 4 that I can remember accessing on the NACDS 5 site. 6 Q. Does Walmart participate in 7 updating those resources? 8 MS. TABACCHI: Object to the 9 form. 10 THE WITNESS: No. It's -- in 11 my mind, that resource is a service 12 that NACDS provides. 13 MR. INNES: Okay. 14 Q. (BY MR. INNES) You mentioned 15 you met with legislators and staff about a 16 national prescription monitoring program in 17 2018; is that right? 18 A. That's what I recall. 19 Q. I just wanted to make sure I 20 had the date right. 21 Did you or Walmart ever raise 22 that idea, or something similar to that idea, 23 prior to 2018 with state legislators or 24 federal legislators? 25 MS. TABACCHI: Object to the</p>
<p style="text-align: right;">Page 183</p> <p>1 participation. I was still in the field at 2 that time. 3 Q. Does the NACDS maintain 4 resources that you can call upon in your role 5 as a member of the policy council? 6 MS. TABACCHI: Object to the 7 form. 8 THE WITNESS: There are -- 9 there are resources that they have 10 available. 11 Q. (BY MR. INNES) Would those 12 resources include statements given to 13 Congress? 14 MS. TABACCHI: Object to the 15 form. 16 THE WITNESS: Not that I've 17 seen. 18 Q. (BY MR. INNES) What resources 19 do you know to be available? 20 A. The resources that I've 21 accessed would be like grids of state law on 22 the specific issues. Something -- I'm trying 23 to think of what -- state practice allowance 24 for immunizations, for example. 25 I also know at one time they</p>	<p style="text-align: right;">Page 185</p> <p>1 form. 2 THE WITNESS: We talked about 3 the issue, but I don't know -- I don't 4 know to specific legislators if we did 5 have that conversation. 6 Q. (BY MR. INNES) When is the 7 first time that you talked about that 8 particular program? 9 MS. TABACCHI: Object to the 10 form. 11 THE WITNESS: I don't remember 12 what date -- what year it was. It was 13 sometime -- 14 So it was during the previous 15 administration, I participated in a 16 work group through ONDCP, Office of 17 National Drug, OND -- Office of 18 National -- ONDCP, whatever that 19 stands for -- Drug Control Policy, I 20 think. 21 And that was focused on the 22 interoperability of prescription drug 23 monitoring programs and trying to 24 achieve broader access to those -- to 25 those programs.</p>

Page 186	Page 188
<p>1 Q. (BY MR. INNES) And "the prior 2 administration," you're referring to the 3 President Obama's administration? 4 A. Yes. 5 Q. And what exactly is your 6 definition of a prescription drug monitoring 7 program? 8 Just so we're all on the same 9 page. 10 A. States -- generally, because 11 there's not a federal solution -- operate 12 drug monitoring programs where prescription 13 information is provided to the state in an 14 aggregate format so that if they allow 15 access, a physician or a pharmacist, for 16 example, could see not only what was filled 17 in their location or prescribed by them in 18 the case of a physician, but also see -- it's 19 a complete patient profile of the controlled 20 substances that they've received across any 21 prescriber and any pharmacy within that 22 state. 23 Q. Okay. And what was Walmart's 24 intent in presenting such programs to 25 legislatures on that -- in 2018?</p>	<p>1 Drug Abuse and Diversion - Senator 2 Harkin. WMT_MDL_000049685-49687, was 3 marked for identification.) 4 Q. (BY MR. INNES) Again, 5 Ms. Hiland, take your time in reviewing this 6 document. 7 For the record, it is a Walmart 8 document Bates stamped 49686 through 49687. 9 [Document review.] 10 THE WITNESS: I've reviewed. 11 Q. (BY MR. INNES) So this is a 12 letter dated August 17th, 2012, sent by you 13 to Senator Tom Harkin, in the Hart Senate 14 Building in Washington, DC. 15 Do you remember sending this 16 letter? 17 A. I don't specifically. I did 18 send the letter. 19 Q. And at the bottom, the last 20 full -- the last paragraph begins, "Policy 21 areas that should be reviewed by this panel 22 include a system for prescription drug 23 monitoring that avoids duplications and 24 process -- and provides access to 25 stakeholders that need the prescription</p>
<p style="text-align: center;">Page 187</p> <p>1 MS. TABACCHI: Object to the 2 form. 3 THE WITNESS: We were asking 4 for advocacy to establish a national 5 prescription drug monitoring program 6 so that we -- so that there would be 7 clear visibility across all state 8 lines. 9 Q. (BY MR. INNES) Okay. And did 10 you make efforts to do that with the prior 11 administration? 12 MS. TABACCHI: Object to the 13 form. 14 THE WITNESS: Other than 15 participating in the ONDCP work group. 16 We had been -- I don't know what the 17 timing is. We had been working to 18 establish a national solution over a 19 period of time. That March 2018 20 advocacy was not the start of that 21 conversation. I just don't know what 22 the time frame was. 23 (Whereupon, Deposition Exhibit 24 Walmart Hiland 6, 8-17-12 email from 25 Susanne Hiland. Subj: Prescription</p>	<p style="text-align: center;">Page 189</p> <p>1 monitoring data." 2 Is it fair that that's a PDMP? 3 A. Yes. 4 Q. So does this refresh your 5 recollection that at least as early as 6 August 17th, 2012, Walmart was discussing 7 PDMPs with federal legislators? 8 A. Yes. 9 Q. Now, based on having -- now 10 having this letter, do you recall if it -- 11 happened prior to August 17th, 2012? Do you 12 recall any communications such as advocating 13 for a PDMP? 14 MS. TABACCHI: Object to the 15 form. 16 THE WITNESS: I don't know from 17 an advocacy, but this wouldn't be 18 the -- this would have been the first 19 time this issue was discussed with 20 Walmart, or that we would have 21 discussed it. 22 Q. (BY MR. INNES) Okay. 23 A. This would have been a result 24 of prior discussions that we have -- at least 25 had within Walmart.</p>

Page 190	Page 192
<p>1 Q. So this letter opens -- the 2 opening paragraph asks Senator Harkin to 3 fight prescription diversion abuse. Right? 4 A. Yes. 5 Q. Okay. And you ascribe the 6 matter as urgent; is that right? 7 A. Yes. 8 Q. And this is in -- this is in 9 2012? 10 A. Yes. 11 Q. Why in 2012 did you feel that 12 the matter was urgent? 13 A. This was part of efforts that 14 we had ongoing. This was in the -- kind of 15 in the same time frame that we were hearing 16 about the oxy 30 issues from the DEA. I know 17 that there were actions taken against some of 18 our competitors around their dispensing 19 habits, and so we were seeing the issues 20 related to opioid use continuing to rise, 21 just coming from an environmental scan. 22 Q. Did you say opioid use or 23 opioid abuse? 24 A. I meant abuse, if ... 25 Q. So the reason why, in August of</p>	<p>1 sense of urgency in your mind? 2 MS. TABACCHI: Object to the 3 form. 4 THE WITNESS: So I think it was 5 the environment that we were all aware 6 of at that time. 7 We put proactive measures in 8 place related to the oxy 30 because 9 enforcement action was occurring in 10 other areas. The potential for 11 someone to try to move that 12 prescription or that -- or into a 13 Walmart was something that we had some 14 concerns about. That's why we put 15 some of those additional measures in 16 place. 17 And so this was just an 18 environment that we saw continuing 19 issues related to opioids, and we were 20 hoping for support of this advisory 21 panel which ultimately was 22 commissioned, I believe. 23 Q. (BY MR. INNES) Does 24 environmental -- the environment that you're 25 in; right? It's folks other than Walmart</p>
<p style="text-align: center;">Page 191</p> <p>1 2012, you believe the matter was urgent was 2 because of the conversations you had had with 3 the DEA regarding oxy 30 and the fines and 4 penalties that were leveled against folks who 5 were similarly situated to Walmart in the 6 dispensing and distribution of opioids. 7 MS. TABACCHI: Object to the 8 form. 9 THE WITNESS: Really what we 10 were -- what we were seeing as a 11 continuing issue related to the opioid 12 abuse. 13 Q. (BY MR. INNES) Okay. And you 14 mentioned that the DEA told you that they 15 weren't focused on Walmart in particular for 16 oxy 30s at that point in time; right? 17 A. That is correct. 18 Q. And these actions that you 19 referenced were brought against companies 20 other than Walmart? That's right? 21 A. Correct. 22 Q. So why would a warning from the 23 DEA that you weren't a concern, that Walmart 24 wasn't a concern and actions against 25 companies other than Walmart create this</p>	<p style="text-align: center;">Page 193</p> <p>1 that are having trouble with the DEA. In 2 fact, the DEA tells you that they're not 3 focusing on you. So what's the concern? 4 MS. TABACCHI: Object to the 5 form. 6 THE WITNESS: The concern is 7 that there are -- the environment -- 8 I'm not talking about the regulatory 9 environment. The environment that I'm 10 talking about is the environment that 11 our pharmacists are faced with, with 12 people presenting prescriptions, and 13 we had -- we had competitors who were 14 implementing programs that limited 15 some of the ways that they were 16 dispensing. And so we just -- the 17 environment that we saw from a 18 community pharmacy perspective pointed 19 to an urgency around the issue related 20 to opioids. 21 Q. (BY MR. INNES) How does a 22 competitor limiting dispensing of opioids 23 bear at all on Walmart? 24 MS. TABACCHI: Object to the 25 form.</p>

<p style="text-align: right;">Page 194</p> <p>1 THE WITNESS: So one of the red 2 flags that our pharmacists face is 3 pharmacy shopping.</p> <p>4 So if one pharmacy denies a 5 prescription, that doesn't mean the 6 person is not going to try to go to 7 the next pharmacy and the next 8 pharmacy until they can get their 9 prescription filled.</p> <p>10 And so those -- those were 11 just -- as we're thinking about issues 12 in the environment, those are the 13 kinds of things that we're thinking.</p> <p>14 Q. (BY MR. INNES) So what 15 particular -- what particular competitors 16 were implementing programs that limited the 17 ways that they were dispensing opioids?</p> <p>18 MS. TABACCHI: Object to the 19 form.</p> <p>20 Q. (BY MR. INNES) At this 21 particular time?</p> <p>22 A. At this time, I believe 23 Walgreens and CVS both had programs in place.</p> <p>24 Q. So if a Walgreens and CVS were 25 limiting their dispensing of opioids, as I</p>	<p style="text-align: right;">Page 196</p> <p>1 A. Because Walmart wasn't creating 2 the demand. Our competitors weren't creating 3 the demand. The prescriptions that were 4 being written didn't cease when -- when a 5 competitor decided to change a program or a 6 policy. I'm saying the potential existed. 7 That's why we implemented our proactive 8 policies.</p> <p>9 Q. When you say "Walmart wasn't 10 creating the demand," what do you mean by 11 that?</p> <p>12 A. We didn't write the 13 prescriptions that were coming to us.</p> <p>14 Q. And you saw a -- and the 15 demand -- so the demand is, in -- in this 16 scenario, what do you mean by the word 17 "demand"?</p> <p>18 A. The prescriptions we were 19 filling -- we do fill today -- come from a 20 physician. So those prescriptions are not 21 generated through any activity that Walmart 22 directs. That's what I mean.</p> <p>23 MS. TABACCHI: We're ready for 24 a break whenever it's good for you, 25 Mike.</p>
<p style="text-align: right;">Page 195</p> <p>1 understand your testimony, that would 2 potentially lead to those scripts being 3 brought to a Walmart to be filled.</p> <p>4 A. I'm just saying that the 5 environment that we were practicing in was 6 different than what we had seen in the past.</p> <p>7 And that potential existed 8 within the -- within the practice that we 9 were experiencing at the time.</p> <p>10 Q. And I'm just trying to get a 11 better understanding about the environment.</p> <p>12 And one of the factors in that 13 environment that you've described is the -- 14 that your competitors were limiting 15 dispensing.</p> <p>16 And if your competitor is 17 limiting dispensing, I want to know -- 18 understand how that impacted Walmart 19 negatively.</p> <p>20 MS. TABACCHI: Object to the 21 form.</p> <p>22 THE WITNESS: I'm saying it had 23 the potential to do that.</p> <p>24 Q. (BY MR. INNES) And how -- why 25 did it have the potential to do that?</p>	<p style="text-align: right;">Page 197</p> <p>1 MR. INNES: Okay.</p> <p>2 Q. (BY MR. INNES) So the 3 demands -- I'm just trying to follow your 4 logic on the increased -- or your 5 competitor's limiting dispensing.</p> <p>6 By limiting dispensing, are you 7 saying that those scripts that were denied 8 by, say, CVS or Walgreens in this scenario 9 were then brought to Walmart to be filled, 10 and that increased the demand at the Walmart 11 pharmacy counter for opioids?</p> <p>12 MS. TABACCHI: Object to the 13 form. Asked and answered.</p> <p>14 THE WITNESS: No, what I'm 15 saying was the potential for them to 16 be presented existed. We -- and so 17 be -- the environment that we found 18 ourselves in was very different 19 over -- over a period of time that we 20 had seen some of the activity. We had 21 information from the DEA saying 22 oxycodone 30 was a problem. Walmart 23 was not the problem.</p> <p>24 The problem that was -- was 25 being focused on was prescriptions for</p>

Page 198	Page 200
<p>1 oxycodone 30 that Walmart was not 2 writing. 3 And so we were trying to be -- 4 we found ourselves in a position to 5 say, we have this information. We 6 want to be proactive about it. And 7 the environment that we found 8 ourselves in was, we didn't want to be 9 part of any problem. We want to be 10 proactive in the programs that we were 11 outlining, and we saw activity around 12 us changing. 13 MR. INNES: Okay. I'm going to 14 move to strike the witness's answer to 15 that last question starting at "We." 16 So I'll keep, "No, what I'm 17 saying was about the potential for 18 them to be presented existed," which I 19 think is responsive to my question. 20 And I'll -- I can change my question. 21 Q. (BY MR. INNES) Are you saying 22 that by Walgreens and CVS limiting their 23 dispensing increased the potential for 24 scripts that were denied by those pharmacies 25 to be brought to Walmart?</p>	<p>1 seen previously. It's why we 2 implemented policies that were 3 different at this time. 4 Q. (BY MR. INNES) What was 5 different in 2012 than previously? 6 MS. TABACCHI: Object to the 7 form. Asked and answered. 8 THE WITNESS: We had 9 information from the DEA specific to 10 oxycodone, the 30 milligrams, being an 11 issue that they were seeing. 12 That was different. That was 13 new information to us. 14 We reacted to that information. 15 MS. TABACCHI: Mike, before we 16 keep going, could we take another 17 break, please? 18 MR. INNES: You were done 19 answering that question? I'm sorry. 20 MS. TABACCHI: You were 21 finished; right? 22 THE WITNESS: I was. 23 MR. INNES: Sure, we can take a 24 break. 25 THE VIDEOGRAPHER: 1:54. We</p>
<p>1 MS. TABACCHI: Object to the 2 form. Asked and answered. 3 THE WITNESS: Yes, we saw that 4 as a potential. 5 Q. (BY MR. INNES) And why is that 6 a reason for action needed? In that -- 7 why -- strike that. 8 If your competitors in the 9 industry are tightening or limiting their 10 dispensing of opioids, it gets passed on to 11 you; right? Potentially. In your scenario. 12 It gets potentially passed on to you. And 13 it's been denied at another facility. Why 14 would -- denied by a competitor. Why would 15 Walmart not just deny that same script? 16 MS. TABACCHI: Object to the 17 form. Mischaracterizes the testimony. 18 THE WITNESS: So we had 19 policies and procedures in place to 20 address and verify prescriptions as 21 they were presented to our 22 pharmacists. And so this was -- my 23 testimony is about the environment 24 that we saw in this period of time. 25 This was different than we had</p>	<p>1 are off the video record. 2 (Recess taken, 1:54 p.m. to 3 2:12 p.m.) 4 THE VIDEOGRAPHER: 2:12. We 5 are on the video record. 6 MR. INNES: Okay. We're back 7 on the record. There was a -- before 8 we start, Ms. Hiland, I'm just going 9 to make a statement on the record 10 here. 11 And correct me if I'm wrong, 12 Ms. Tabacchi, but there is a 13 discrepancy between what was 14 transcribed and perhaps what the 15 witness said occurring around 1:40, I 16 believe. We've agreed that we will 17 take care of that discrepancy via the 18 errata. 19 MS. TABACCHI: Correct. It's a 20 discrepancy between the word "would" 21 and "wouldn't." So we will -- we have 22 agreed that we will address it in the 23 errata. 24 Q. (BY MR. INNES) So let's march 25 forward. We'll see if we can't make sure</p>

Page 202	Page 204
<p>1 everyone makes their flights. Try to quicken 2 the pace a little bit. 3 I'd still like to discuss this 4 August 17th letter that you sent to 5 Senator Harkin. And in the first paragraph 6 you say, "The matter is urgent." 7 The matter you're referring to 8 there is prescription diversion and abuse; is 9 that correct?</p> <p>10 A. Yes. And as the rest of the 11 sentence reads, "a coordinated national 12 effort to combat the problem." I think it is 13 inclusive of what was urgent about this 14 request.</p> <p>15 Q. Okay. So the problem that was 16 urgent is the prescription diversion and 17 abuse, and it's urgent that the prescription 18 drug monitoring program be put into effect; 19 is that right?</p> <p>20 MS. TABACCHI: Object to the 21 form.</p> <p>22 THE WITNESS: I think the 23 content of the letter is beyond -- is 24 inclusive of prescription drug 25 monitoring program, but there are</p>	<p>1 A. We were seeing changes in an 2 environment that included some of those 3 things that I mentioned before. 4 Q. Okay. Well, I think your prior 5 testimony was those were the two pieces of 6 information. 7 Is there information you'd like 8 to add to that list now? 9 MS. TABACCHI: Object to the 10 form. 11 THE WITNESS: I would just say 12 it was -- those were -- those were 13 inclusive of -- I can't think of other 14 reasons right now, but they are 15 inclusive of -- 16 Q. (BY MR. INNES) So does the -- 17 why would a competitor paying fines make this 18 issue urgent? 19 MS. TABACCHI: Object to the 20 form. 21 THE WITNESS: I don't think the 22 fact that they -- I don't think that's 23 what I -- that's not what I meant. 24 What I meant was we were seeing 25 activity in the prescription</p>
<p>1 additional asks that are included in 2 the letter. 3 Q. (BY MR. INNES) Okay. How does 4 a competitor's not following the law, the 5 Controlled Substances Act make this matter 6 urgent?</p> <p>7 MS. TABACCHI: Object to the 8 form.</p> <p>9 THE WITNESS: Yeah. So I'm not 10 saying that in the letter. I know we 11 discussed that previously. 12 What I'm saying is that the 13 issues around prescription drug 14 diversion and abuse make this -- or 15 this is an urgent matter based on that 16 issue. 17 Q. (BY MR. INNES) And you became 18 aware of -- or formed in your mind this issue 19 was urgent because you had conversations with 20 the DEA regarding oxy 30, and because of 21 competitors paying fines or otherwise being 22 prosecuted by the federal government. 23 MS. TABACCHI: Object to the 24 form. 25 Q. (BY MR. INNES) Is that right?</p>	<p>1 dispensing environment that was 2 different than we had seen before. 3 Q. (BY MR. INNES) And that 4 activity was your competitors weren't 5 following the law and being hit with fines? 6 MS. TABACCHI: Object to the 7 form. 8 THE WITNESS: The issues that 9 we were seeing around prescription 10 diversion and abuse were inclusive of 11 what we were -- what we were 12 experiencing in that time frame of 13 2012. It didn't -- it didn't inform 14 everything that's entailed in this 15 letter. What we were -- what we were 16 seeing was we had undertaken a lot of 17 effort and continued to provide due 18 diligence in the way that we're 19 dispensing prescriptions, but we were 20 seeing efforts across the environment, 21 the industry that -- and it brings it 22 into context where there are multiple 23 people trying to address this issue. 24 And the letter is asking for support 25 so that we can bring solutions forward</p>

Page 206	Page 208
<p>1 for our pharmacists. And in this -- 2 in this environment, in our effort to 3 provide healthcare services, we are 4 asking for support and tools for our 5 pharmacists.</p> <p>6 Q. (BY MR. INNES) Why do you need 7 support to comply with the Controlled 8 Substances Act?</p> <p>9 MS. TABACCHI: Object to the 10 form.</p> <p>11 THE WITNESS: We needed -- what 12 we were asking for was support for 13 broader visibility -- I mean, that's 14 what a prescription -- a national 15 prescription monitoring program would 16 do. We're just asking to try to be 17 part of the solution and for support 18 in developing some of these solutions.</p> <p>19 Q. (BY MR. INNES) How does 20 information that one particular form of 21 opioid is being abused? How does that create 22 a sense of urgency in your mind, around all 23 opioids?</p> <p>24 MS. TABACCHI: Object to the 25 form.</p>	<p>1 own programs and provide tools for our 2 pharmacists, we were advocating for 3 additional tools that we felt would be 4 helpful, because there were so many other 5 people also working on issues related to 6 opioids.</p> <p>7 Q. And those people were the DEA; 8 correct?</p> <p>9 A. They're included in the list of 10 people and agencies that were working on 11 opioid issues.</p> <p>12 Q. Right. And they were doing 13 that by prosecuting folks who were not 14 complying with the CSA; isn't that right?</p> <p>15 MS. TABACCHI: Object to the 16 form.</p> <p>17 THE WITNESS: In our case, they 18 were communicating with us. I think 19 there were a variety of ways that the 20 DEA and other agencies were focusing 21 on the opioid issue.</p> <p>22 Q. (BY MR. INNES) And your 23 competitors were focused on the opioid issue 24 by restricting their opioid dispensing 25 practices; is that right?</p>
<p style="text-align: center;">Page 207</p> <p>1 THE WITNESS: It's one data 2 point that we reacted proactively to.</p> <p>3 Q. (BY MR. INNES) And if there 4 was a sense of urgency regarding that one 5 product, why not extend your programs to all 6 products?</p> <p>7 MS. TABACCHI: Object to the 8 form.</p> <p>9 THE WITNESS: We did do that.</p> <p>10 Q. (BY MR. INNES) Your comments 11 focused on the oxy 30s.</p> <p>12 A. My comment focused on oxy 30 13 because that's the drug that the DEA 14 mentioned. We also, then, started to look at 15 all C-IIs that we were dispensing or 16 distributing around the -- we expanded the 17 review that we were doing from -- to all 18 opioid -- all C-II products that were ordered 19 over a quantity of 20. We increased our due 20 diligence around all products in that same 21 time frame.</p> <p>22 We were communicating to our 23 pharmacies. We were providing additional 24 training. And there were a multitude of 25 things that we were doing -- to improve our</p>	<p style="text-align: center;">Page 209</p> <p>1 MS. TABACCHI: Object to the 2 form.</p> <p>3 THE WITNESS: My experience was 4 that there were changes that were 5 occurring that were new in the 6 environment. That was my experience.</p> <p>7 Q. (BY MR. INNES) And you pointed 8 specifically to, I think it was Walgreens and 9 CVS.</p> <p>10 A. You asked me who I was aware 11 had made some changes, and I knew that there 12 were enforcement actions at that time.</p> <p>13 Q. And so they made those 14 changes -- the changes that you were aware of 15 were related to the enforcement actions?</p> <p>16 MS. TABACCHI: Object to the 17 form.</p> <p>18 THE WITNESS: I don't know the 19 timing of the -- I don't know the 20 exact timing of when any of those 21 changes were made by our competitors.</p> <p>22 Q. (BY MR. INNES) So the urgency, 23 at least in part, is a result of your 24 competitors not following the CSA; is that 25 right?</p>

<p style="text-align: right;">Page 210</p> <p>1 MS. TABACCHI: Object to the 2 form. 3 THE WITNESS: No, it was a data 4 point in the environment. And we saw 5 multiple agencies, patient advocacy 6 groups working in this area. So we 7 were asking for support through this 8 letter, and ultimately I believe this 9 advisory committee that we sought 10 support from Senator Harkin on was 11 established. 12 Q. (BY MR. INNES) So your 13 competitors' failure to comply with the CSA 14 and the fines they paid as a result of that 15 was a data point in the environment that 16 resulted in this letter being sent? 17 MS. TABACCHI: Object to the 18 form. Misstates testimony. 19 THE WITNESS: It was not the 20 impetus for the letter being sent. I 21 believe we started to talk about the 22 urgency and what was happening. I 23 described what I remember as the 24 environment. That was a -- that 25 was --</p>	<p style="text-align: right;">Page 212</p> <p>1 Q. (BY MR. INNES) Which specific 2 enforcement actions do you recall reviewing? 3 A. I don't know that the actions 4 had taken place. There -- there were audits 5 that -- that were in the raids, closures of 6 pharmacies that occurred in the early 2012 7 time frame. 8 Q. Okay. So we can go through 9 those. But I believe your earlier testimony 10 was that it was enforcement actions that 11 helped frame the matter for you. Earlier. 12 Right? It was discussions with the DEA and 13 enforcement actions against competitors. I'm 14 wondering which enforcement actions against 15 which competitors were you referring to? 16 A. I don't know that -- I don't 17 know the exact time that those occurred. I 18 may need to include the word "pending." I 19 know that it was earlier in 2012 that there 20 were some issues with our competitors that 21 are a piece of information in this time 22 frame. 23 Q. So now it's -- you framed the 24 matter as urgent based on a pending 25 investigation of your competitors.</p>
<p style="text-align: right;">Page 211</p> <p>1 So when I say "a data point," 2 it was one of the pieces of 3 information that I had in this time 4 frame. 5 It did not cause -- it was not 6 the cause of the letter being written. 7 Q. (BY MR. INNES) It was one of 8 the data points that you used to form this 9 sense of urgency? 10 MS. TABACCHI: Object to the 11 form. 12 THE WITNESS: It was one of the 13 data points that formed my 14 understanding and frame in this time 15 period. 16 Q. (BY MR. INNES) Which you 17 describe as an urgent -- as an urgent matter? 18 Correct? 19 MS. TABACCHI: Object to the 20 form. 21 THE WITNESS: This letter asked 22 for support for a coordinated national 23 effort to combat prescription 24 diversion and abuse. And I believe 25 that was an urgent issue.</p>	<p style="text-align: right;">Page 213</p> <p>1 MS. TABACCHI: Object to the 2 form. Misstates testimony. Asked and 3 answered. 4 THE WITNESS: Can you restate 5 the question, please? 6 Q. (BY MR. INNES) Sure. So I -- 7 the question I thought was simple. I was 8 trying to understand and get a better 9 understanding for why you believed the 10 prescription diversion abuse matter to be 11 urgent at the time you wrote this letter. 12 And your prior testimony was 13 that you had a conversation with the DEA 14 regarding oxy 30s. And also enforcement 15 actions against competitors. 16 So I'm giving you an 17 opportunity to explain, if I'm wrong on that, 18 or if I'm right on that, or if there's 19 anything else that helped frame the matter as 20 urgent for you at the writing -- at the time 21 you wrote this August 17th letter. 22 MS. TABACCHI: Object to the 23 form. Asked and answered. 24 THE WITNESS: Again, the issue 25 of prescription diversion and abuse,</p>

<p style="text-align: right;">Page 214</p> <p>1 the environment that I was aware of, 2 and from a timing perspective that I 3 recall was how I have described. We 4 had conversations about the oxycodone 5 30 issue. And in my mind, from an 6 enforcement action, I believe there 7 had been closures of at least one 8 competitor. I thought that it was -- 9 I thought that the time frame was 10 appropriate based on DEA activity.</p> <p>11 I'm not saying that we framed 12 our entire -- that I framed this 13 letter because of a DEA enforcement 14 action. I'm not testifying to that 15 point. If that's what the impression 16 has been, that is not what I'm 17 testifying to.</p> <p>18 I was talking about the 19 environment.</p> <p>20 Q. (BY MR. INNES) And that 21 environment is the environment that caused 22 you to form in your mind the idea that 23 prescription diversion and abuse was an 24 urgent matter in August of 2012.</p> <p>25 MS. TABACCHI: Object to the</p>	<p style="text-align: right;">Page 216</p> <p>1 times.</p> <p>2 MR. INNES: And the answer has 3 changed a couple of times.</p> <p>4 MS. TABACCHI: I think she's 5 done her best to give you the answer, 6 and you just don't like it so you keep 7 asking the same question over and over 8 and over.</p> <p>9 MR. INNES: I have to keep 10 following up on different pieces of 11 information and data points that she's 12 giving me.</p> <p>13 And to be clear, I'm not --</p> <p>14 MS. TABACCHI: You're not 15 trying to harass the witness?</p> <p>16 MR. INNES: I'm trying not to 17 harass you. And this is part of the 18 stilted nature of such a conversation 19 where I'm addressing your counsel. 20 And I don't mean to be rude.</p> <p>21 All I'm asking for I want to 22 make sure that the record is clear 23 that I understand what data points 24 specifically you were considering when 25 forming this opinion that the</p>
<p style="text-align: right;">Page 215</p> <p>1 form. Asked and answered.</p> <p>2 THE WITNESS: Again, it was 3 a -- it was information that I -- it 4 didn't -- it didn't generate this 5 letter. It wasn't the purpose behind 6 this letter.</p> <p>7 Q. (BY MR. INNES) Which I think 8 is a separate question. And I haven't asked 9 you what the purpose is behind this letter. 10 That's not my question right now. My 11 question is -- goes to the words you put in 12 this letter and the frame of mind you were in 13 when you wrote this letter.</p> <p>14 And you state that this 15 prescription diversion and abuse matter is 16 urgent.</p> <p>17 And you've said that there were 18 data points in the environment, and there's 19 information in the environment that had 20 caused you to hold that belief at that time.</p> <p>21 I'm asking for the precise 22 information and data points that you are 23 citing to right now.</p> <p>24 MS. TABACCHI: Mike, you know, 25 you've asked this question a number of</p>	<p style="text-align: right;">Page 217</p> <p>1 prescription diversion and abuse 2 matter was urgent in August of 2012.</p> <p>3 And you've mentioned a couple 4 of things, and I just want to make 5 sure that you've had an opportunity to 6 give me all of the things.</p> <p>7 THE WITNESS: I can't recall 8 all of the issues that were forming 9 my -- the way that I thought about 10 this issue, but I know there were 11 multiple issues. I'm giving you -- 12 I'm giving you some situations that I 13 remember in this time frame. That's 14 what I'm providing to you.</p> <p>15 We are asking for support for 16 tools for our pharmacists to help 17 address a situation that we saw was 18 changing. That's the -- that's the 19 extent of what I can tell you that I 20 remember in this time frame.</p> <p>21 Q. (BY MR. INNES) Okay. Again, 22 I'm not asking you what this letter is 23 requesting from Senator Harkin. I'm asking 24 for why you believed in 2012, August 2012, 25 why the prescription diversion abuse matter</p>

Page 218	Page 220
<p>1 was urgent. What specific data points, in 2 your words, did you use to form that opinion? 3 A. We saw a changing environment. 4 Q. And what were the changes in 5 that environment? 6 MS. TABACCHI: Object to the 7 form. Asked and answered. 8 THE WITNESS: We saw specific 9 urgency around information that we 10 were getting from DEA. 11 Q. (BY MR. INNES) What specific 12 urgency around what specific information that 13 you were getting from DEA? 14 A. In this time frame, there was a 15 conversation around specific concerns that 16 they had with oxycodone 30 milligrams that 17 they saw as high abuse. They were tracking 18 that information. We were working -- we were 19 working not to be part of a problem. We were 20 working to put measures in place to be part 21 of the solution. 22 That's the environment that we 23 were working within. 24 It's -- that's the extent that 25 I remember about this time frame in mid-2012.</p>	<p>1 that are closed. That was my frame of 2 reference in my mind when I testified 3 earlier. 4 Q. (BY MR. INNES) Was that the 5 earliest point in time that you recall being 6 notified that prescription opioid abuse and 7 diversion was a problem in the United States? 8 MS. TABACCHI: Object to the 9 form. 10 THE WITNESS: No. 11 Q. (BY MR. INNES) And when was 12 the first time that you learned that 13 information? 14 A. I don't recall exactly. 15 Q. Was it in 2002? 16 MS. TABACCHI: Object to the 17 form. 18 THE WITNESS: I can't recall. 19 Q. (BY MR. INNES) Was it -- it 20 was certainly before August of 2012; right? 21 A. It would be before that. 22 Q. Was it your understanding that 23 those pharmacy closures by the DEA were the 24 result of improper dispensing of opioids? 25 MS. TABACCHI: Object to the</p>
<p>1 Q. But there's more. You also 2 mentioned enforcement actions. I just want 3 to make sure that that is -- that that's 4 clear. That you're considered this 5 information regarding oxy 30s, the 6 conversation with DEA, and there's also 7 another thing that you originally testified 8 as to considering. Right? 9 A. Yes. I included that as a data 10 point that I remember in this time frame. 11 Q. Right. And I want to know what 12 exactly you remember about that data point. 13 MS. TABACCHI: Object to the 14 form. Asked and answered. 15 THE WITNESS: I may have the 16 dates wrong. My memory is that in or 17 around the May time frame of 2012 -- 18 it might have been June of 2012 -- 19 that there were -- a couple of 20 pharmacies were closed by the DEA. It 21 was -- to me, it was a connection 22 point of a changing environment. 23 When the DEA says there's a 24 problem with oxycodone 30, we're 25 reacting to that. We see pharmacies</p>	<p>1 form? 2 THE WITNESS: I read news 3 reports about the closure. 4 Q. (BY MR. INNES) What do you 5 mean -- 6 A. I don't remember specifically 7 what I read. 8 Q. Do you recall anything from 9 what you read? 10 A. I thought I read about it in 11 the May to June time frame of 2012. I don't 12 remember other specifics. 13 Q. What publication do you think 14 you read about it? 15 A. I don't know. It was on some 16 publicly available news feed. 17 Q. Did you draft this letter with 18 anyone else? 19 MS. TABACCHI: Object to the 20 form. 21 THE WITNESS: This format was 22 part of an effort that was coordinated 23 with NACDS. 24 Q. (BY MR. INNES) What do you 25 mean by "format part of an effort that was</p>

Page 222	Page 224
1 coordinated by NACDS"? What do you mean by 2 "format"? 3 A. The format of the letter. 4 Q. And the format of the letter, 5 you mean the letterhead and the signature? 6 What do you mean by "format"? 7 MS. TABACCHI: Object to the 8 form. 9 THE WITNESS: No, there was 10 suggested language, and it was 11 reviewed by our government affairs 12 team, as I recall. 13 Q. (BY MR. INNES) Who on the 14 government affairs team -- well, strike that. 15 And by "our government affairs 16 team," were you referring to Walmart? 17 A. Yes. 18 Q. And who on Walmart's government 19 affairs team reviewed this letter? 20 A. I don't know specifically who. 21 There were a couple of members that I worked 22 with. 23 Q. Did you -- you received a draft 24 from NACDS initially; is that right? 25 MS. TABACCHI: Object to the	1 form. 2 THE WITNESS: I don't recall. 3 I don't know. 4 Q. (BY MR. INNES) After it went 5 to government relations, did NACDS review it 6 again? 7 MS. TABACCHI: Object to the 8 form. 9 THE WITNESS: No. 10 Q. (BY MR. INNES) So it goes from 11 government relations. Once you get approval 12 from government relations, you sent it 13 directly to Senator Tom Harkin or his staff? 14 A. Yes. 15 Q. Other than the government 16 relations team and yourself, did anyone else 17 at Walmart review this letter prior to it 18 being sent to Mr. Harkin -- or 19 Senator Harkin? 20 A. I don't know. 21 Q. Is it possible that it could 22 have been? 23 MS. TABACCHI: Object to the 24 form. 25 THE WITNESS: I don't know who
1 form. 2 THE WITNESS: I believe so. 3 Q. (BY MR. INNES) And then did 4 you make your own edits to that draft? 5 A. I believe it's possible that we 6 would have. 7 Q. Okay. And then you forwarded 8 that draft along next to Walmart's government 9 relations team? 10 MS. TABACCHI: Object to the 11 form. 12 THE WITNESS: If I would have 13 made any suggested edits, I would have 14 made that before forwarding to the 15 government affairs team. 16 Q. (BY MR. INNES) Would you have 17 done that in -- are you familiar with? 18 A. Yes. 19 Q. Would you have done that in the 20 redline format? 21 A. Yes. 22 Q. Would you have shown it to 23 anyone else prior to forwarding it on to 24 government relations? 25 MS. TABACCHI: Object to the	1 it might have been, so I can't think 2 of anyone that it might have been. 3 Q. (BY MR. INNES) Who reported 4 directly to you at this time? August of 5 2012? 6 A. In 2012, I believe it would 7 have been Tim Koch, Debbie Mack, Dadrian 8 Gaston, and I'm not sure when George Chapman 9 joined the team. 10 Q. Do you recall sharing this 11 letter with any of those individuals? 12 A. I don't. 13 Q. Who did you report directly to 14 in August of 2012? 15 A. Sybil Richard. 16 Q. Did you show this to 17 Ms. Richard? 18 A. Possibly, but I don't know. 19 Q. Is there a written protocol in 20 Walmart's files for communications that are 21 done in conjunction with trade groups to 22 federal legislators? 23 MS. TABACCHI: Object to the 24 form. 25 THE WITNESS: I'm sorry, can
Page 223	Page 225

Page 226	Page 228
<p>1 you re-ask the question?</p> <p>2 Q. (BY MR. INNES) Is there a</p> <p>3 protocol in place at Walmart for who reviews</p> <p>4 a letter prior to it being sent to a federal</p> <p>5 legislator?</p> <p>6 A. The process, as I understood</p> <p>7 it, was to partner with the government</p> <p>8 affairs team.</p> <p>9 Q. What did you base that</p> <p>10 understanding on?</p> <p>11 A. Just my experience with any</p> <p>12 issue that dealt with a legislative issue.</p> <p>13 Q. Did you send any other letters</p> <p>14 in conjunction with NACDS regarding opioids</p> <p>15 to federal or state legislators?</p> <p>16 A. It's possible that I did. I</p> <p>17 don't recall.</p> <p>18 Q. Did you write to</p> <p>19 President Obama?</p> <p>20 A. I don't think so.</p> <p>21 Q. Did you write to</p> <p>22 President Obama only on behalf of Walmart at</p> <p>23 any point in time?</p> <p>24 A. I don't think so. I don't</p> <p>25 recall that.</p>	<p>1 or generated.</p> <p>2 I wasn't -- I wasn't part of</p> <p>3 any conversation or development around</p> <p>4 the letter.</p> <p>5 Q. (BY MR. INNES) And again, I'm</p> <p>6 talking about the letter that you believe was</p> <p>7 sent to the Trump Administration. Was that</p> <p>8 sent -- do you recall any other organizations</p> <p>9 other than Walmart that participated in the</p> <p>10 drafting of that letter?</p> <p>11 MS. TABACCHI: Object to the</p> <p>12 form. Lack of foundation.</p> <p>13 THE WITNESS: If I remember</p> <p>14 correctly, I think CVS Caremark was</p> <p>15 involved. Signed on. I -- but again,</p> <p>16 I didn't participate in drafting the</p> <p>17 letter, so I don't know who else might</p> <p>18 have been involved in that.</p> <p>19 Q. (BY MR. INNES) The first time</p> <p>20 that Walmart engaged Buzzeo, or received</p> <p>21 information from Buzzeo related to suspicious</p> <p>22 order monitoring, that was prior to</p> <p>23 August 17, 2012. Isn't that right?</p> <p>24 A. I'm sorry, can you -- I think</p> <p>25 I --</p>
<p style="text-align: center;">Page 227</p> <p>1 Q. Do you recall a letter that you</p> <p>2 wrote to President -- that was written to</p> <p>3 President Trump from Walmart regarding</p> <p>4 opioids?</p> <p>5 MS. TABACCHI: Object to the</p> <p>6 form.</p> <p>7 THE WITNESS: I believe there</p> <p>8 was a letter that went to the Trump</p> <p>9 Administration. I don't remember the</p> <p>10 specifics. I think it was sent by our</p> <p>11 senior leadership.</p> <p>12 Q. (BY MR. INNES) Was that letter</p> <p>13 sent -- strike that.</p> <p>14 Did that letter include</p> <p>15 language proposed by the NACDS?</p> <p>16 A. I don't think it was led by</p> <p>17 NACDS.</p> <p>18 Q. Was it led by any other</p> <p>19 organization other than Walmart?</p> <p>20 MS. TABACCHI: Object to the</p> <p>21 form.</p> <p>22 THE WITNESS: I don't know how</p> <p>23 it was generated. I think there were</p> <p>24 other members of the NACDS, but I</p> <p>25 don't know that it was NACDS directed</p>	<p style="text-align: center;">Page 229</p> <p>1 Q. I shifted gears a little bit on</p> <p>2 you. I'm sorry.</p> <p>3 A. I'm sorry, I didn't follow.</p> <p>4 Q. So you're familiar with the</p> <p>5 company Buzzeo?</p> <p>6 A. Yes.</p> <p>7 Q. When did you first become</p> <p>8 familiar with the -- or gain knowledge of the</p> <p>9 company Buzzeo?</p> <p>10 A. I think I saw a document</p> <p>11 yesterday that at least indicated sometime in</p> <p>12 2010.</p> <p>13 Q. And that was -- I think it was</p> <p>14 a Dendrite? It was a former name of Buzzeo?</p> <p>15 A. Cegedim.</p> <p>16 Q. And that was prior to August of</p> <p>17 2012; isn't that right?</p> <p>18 A. Yes.</p> <p>19 Q. And then Walmart doesn't</p> <p>20 actually begin using the Buzzeo platform</p> <p>21 until sometime in 2017; is that right?</p> <p>22 A. That's correct.</p> <p>23 Q. And that's about five years</p> <p>24 after the sending of this letter in August of</p> <p>25 2012?</p>

	Page 230	Page 232
1	A. Yes.	1 MS. TABACCHI: Object to the
2	Q. This letter also makes several	2 form.
3	3 policy suggestions to Senator Harkin. We've	4 THE WITNESS: Again, we're
4	4 discussed -- we've at least mentioned one.	5 looking for solutions that we thought
5	5 There are others.	6 would be helpful in providing tools
6	6 Does Walmart suggest that other	7 and some additional collaboration,
7	7 distributors of oxy 30 impose the same limits	8 not -- we didn't focus on a specific
8	8 that Walmart had at this time?	9 drug in this letter. It just wasn't
9	9 MS. TABACCHI: Object to the	10 part of the intent.
10	10 form.	11 Q. (BY MR. INNES) Well, Walmart
11	11 THE WITNESS: I'm sorry, I	12 decided to put that particular check in place
12	12 didn't follow -- I don't see that in	13 in its own distribution; right?
13	13 the letter, so can you clarify?	14 A. We did.
14	14 Q. (BY MR. INNES) Sure. So	15 Q. So why not suggest that
15	15 you're making suggestions in this letter to	16 everyone put that check in place?
16	16 Senator Harkin about particular policies that	17 MS. TABACCHI: Object to the
17	17 could be looked at or advanced to fight what	18 form.
18	18 you described as the prescription diversion	19 THE WITNESS: We just didn't do
19	19 and abuse. Right?	20 that in this letter.
20	20 A. Yes.	21 Q. (BY MR. INNES) Did you believe
21	21 Q. Do you suggest in this letter	22 that that particular check was effective in
22	22 specifically targeting oxy 30?	23 preventing prescription diversion and abuse?
23	23 A. No. That's not in this letter.	24 MS. TABACCHI: Object to the
24	24 Q. Did you not think that	25 form.
25	25 specifically targeting oxy 30 would be a way	THE WITNESS: I think we put
	Page 231	Page 233
1	1 to prevent prescription diversion and abuse?	1 the policy in place because we thought
2	2 MS. TABACCHI: Object to the	2 that it was the right thing to do.
3	3 form.	3 Q. (BY MR. INNES) And in this --
4	4 THE WITNESS: I think this was	4 you -- Walmart, in the spirit of
5	5 a broader policy request than specific	5 collaboration with its competitors, why not
6	6 to one item.	6 make that suggestion? Why doesn't everyone
7	7 Q. (BY MR. INNES) Why not also	7 put this check in place?
8	8 include the specific to one item in this	8 MS. TABACCHI: Object to the
9	9 letter?	9 form.
10	10 MS. TABACCHI: Object to the	10 THE WITNESS: I think we
11	11 form.	11 were -- on that particular activity,
12	12 THE WITNESS: I think we were	12 we were focused on our own internal
13	13 looking for broader policy solutions	13 policies.
14	14 that are listed here.	14 Q. (BY MR. INNES) Were you
15	15 Q. (BY MR. INNES) So you made the	15 focused in this letter on your own internal
16	16 conscious decision to leave out a limit on	16 policies or what NACDS told you to send to
17	17 oxy 30, because it was targeted at a specific	17 Senator Harkin?
18	18 drug?	18 MS. TABACCHI: Objection to
19	19 MS. TABACCHI: Object to the	19 form.
20	20 form.	20 THE WITNESS: No. We were
21	21 THE WITNESS: We were talking	21 looking at broader policies that would
22	22 about a broader issue.	22 be -- that would go beyond our
23	23 Q. (BY MR. INNES) Why not suggest	23 internal programs that we had in
24	24 the limiting of Schedule II narcotics as part	24 place.
25	25 of those broader policy concerns?	25 Q. (BY MR. INNES) Walmart was or

Page 234	Page 236
<p>1 the NACDS was?</p> <p>2 MS. TABACCHI: Object to the</p> <p>3 form.</p> <p>4 THE WITNESS: This letter, sent</p> <p>5 from me, was focused on what we</p> <p>6 thought would be effective policies.</p> <p>7 Q. (BY MR. INNES) So NACDS and</p> <p>8 Walmart were focused on these broader</p> <p>9 concerns; is that right?</p> <p>10 MS. TABACCHI: Object to the</p> <p>11 form.</p> <p>12 THE WITNESS: This was -- this</p> <p>13 format and the information that was</p> <p>14 included here are the items that</p> <p>15 Walmart agreed would be broader</p> <p>16 policies to be helpful in this issue.</p> <p>17 Some of these suggestions came</p> <p>18 from NACDS. We agreed -- I agreed</p> <p>19 with sending the letter in this</p> <p>20 format.</p> <p>21 Q. (BY MR. INNES) Were there any</p> <p>22 suggestions made by the NACDS that you did</p> <p>23 not agree with and deleted from their</p> <p>24 original draft?</p> <p>25 A. I don't recall.</p>	<p>1 Q. When did you begin working on</p> <p>2 the DEA work group?</p> <p>3 A. I don't remember.</p> <p>4 Q. Was it prior to August of 2012?</p> <p>5 A. I don't recall.</p> <p>6 Q. Is there anything that would</p> <p>7 help refresh your recollection as to when you</p> <p>8 may have begun your work on the DEA work</p> <p>9 group at the NACDS?</p> <p>10 A. There may have been. I don't</p> <p>11 know. If there's a document that I could</p> <p>12 review, I'd be happy to review. It.</p> <p>13 Q. This isn't a game of gotcha.</p> <p>14 I'm really just trying to figure it out.</p> <p>15 MS. TABACCHI: Really?</p> <p>16 MR. INNES: Other times it</p> <p>17 might be.</p> <p>18 Kidding.</p> <p>19 Q. (BY MR. INNES) Do you</p> <p>20 recall -- you said you reviewed enforcement</p> <p>21 actions during your time on the DEA work</p> <p>22 group. Do you recall any specific</p> <p>23 enforcement actions that you reviewed?</p> <p>24 A. They were the enforcement</p> <p>25 actions that I mentioned.</p>
<p style="text-align: center;">Page 235</p> <p>1 Q. Did you suggest to the NACDS</p> <p>2 that perhaps we should include Walmart's</p> <p>3 policy regarding oxy 30s as a suggestion?</p> <p>4 MS. TABACCHI: Object to the</p> <p>5 form.</p> <p>6 THE WITNESS: No.</p> <p>7 Q. (BY MR. INNES) Why not?</p> <p>8 MS. TABACCHI: Object to the</p> <p>9 form. Asked and answered.</p> <p>10 THE WITNESS: This letter was</p> <p>11 intended to look at broader policy,</p> <p>12 not Walmart's internal policy.</p> <p>13 Q. (BY MR. INNES) Do you recall</p> <p>14 being a part of a DEA working group?</p> <p>15 A. Yes.</p> <p>16 Q. And what was the DEA working</p> <p>17 group exactly?</p> <p>18 A. It was a subcommittee of the</p> <p>19 operations work group at NACDS.</p> <p>20 Q. And what was its function?</p> <p>21 A. We reviewed -- we reviewed</p> <p>22 enforcement action, and worked to develop</p> <p>23 training for pharmacists specific to red</p> <p>24 flags that DEA identified, that could be</p> <p>25 indicators of diversion.</p>	<p style="text-align: center;">Page 237</p> <p>1 There was an enforcement action</p> <p>2 with an independent pharmacy that I don't</p> <p>3 recall. And then I -- I seem to remember</p> <p>4 that we would have reviewed the CVS</p> <p>5 settlement with DEA.</p> <p>6 Q. Okay. Your review of the -- of</p> <p>7 these enforcement actions, were you also at</p> <p>8 the same time sitting on the policy council</p> <p>9 at the NACDS?</p> <p>10 A. Yes.</p> <p>11 Q. Did your review of the</p> <p>12 enforcement actions inform your discussions</p> <p>13 at the policy councils in any way?</p> <p>14 A. Not -- I mean, it may have, but</p> <p>15 it seems like the substantive work was in the</p> <p>16 subcommittee, the DEA work group.</p> <p>17 Q. And the DEA work group was a</p> <p>18 subgroup of the operations group?</p> <p>19 A. Yes.</p> <p>20 Q. Which is separate from the</p> <p>21 policy group?</p> <p>22 A. Yes.</p> <p>23 Q. Do you recall ever reviewing an</p> <p>24 enforcement action and then making a policy</p> <p>25 recommendation based on that review of the</p>

Page 238	Page 240
<p>1 enforcement action?</p> <p>2 A. Can you -- whose policy? Can</p> <p>3 you clarify what type of policy? Are you</p> <p>4 talking NACDS policy or Walmart policy?</p> <p>5 Q. We can take them in chunks.</p> <p>6 How about NACDS first?</p> <p>7 A. What I recall about the work</p> <p>8 with NACDS was that we were working to</p> <p>9 establish kind of guidelines and training for</p> <p>10 pharmacists related to red flags, dispensing</p> <p>11 red flags.</p> <p>12 So I don't -- I don't</p> <p>13 specifically recall a policy suggestion. I</p> <p>14 don't recall a policy suggestion. I just</p> <p>15 don't recall.</p> <p>16 Q. Did your work on the policy</p> <p>17 council at the NACDS involve advocating for</p> <p>18 particular policy changes at the federal or</p> <p>19 state level?</p> <p>20 MS. TABACCHI: Object to the</p> <p>21 form.</p> <p>22 THE WITNESS: It could.</p> <p>23 Sometime -- sometimes we did advocate</p> <p>24 at the federal or state level.</p> <p>25 Q. (BY MR. INNES) And that -- the</p>	<p>1 communicated to our pharmacists as a</p> <p>2 result of the operations DEA work</p> <p>3 group work.</p> <p>4 Q. (BY MR. INNES) And the DEA</p> <p>5 operations work group, that policy change</p> <p>6 came after a review of a particular</p> <p>7 enforcement action?</p> <p>8 MS. TABACCHI: Object to the</p> <p>9 form.</p> <p>10 THE WITNESS: It was a review</p> <p>11 of red flags that were identified by</p> <p>12 the DEA in -- within those enforcement</p> <p>13 actions.</p> <p>14 Q. (BY MR. INNES) And I really am</p> <p>15 not trying to harass you on this, but do you</p> <p>16 recall the particular enforcement actions</p> <p>17 that you just referenced there?</p> <p>18 A. Some of the review was done by</p> <p>19 attorneys, so I -- I don't know all of the</p> <p>20 actions that were reviewed. I specifically</p> <p>21 remember that there was -- I don't remember</p> <p>22 the name of the independent pharmacy, but</p> <p>23 there was a -- there was an action regarding</p> <p>24 an independent pharmacy that called out</p> <p>25 several red flags that the DEA identified in</p>
Page 239	Page 241
<p>1 August letter that we've discussed at length,</p> <p>2 that would be an example of such a -- such as</p> <p>3 that?</p> <p>4 A. Yes.</p> <p>5 Q. We said we were going to take</p> <p>6 it in chunks. We'll do NACDS first.</p> <p>7 How about a Walmart policy? Do</p> <p>8 you recall after reviewing an enforcement</p> <p>9 action making a suggestion to change a</p> <p>10 Walmart policy or add a Walmart policy?</p> <p>11 MS. TABACCHI: Object to the</p> <p>12 form.</p> <p>13 THE WITNESS: The -- as we -- I</p> <p>14 think it was more again around</p> <p>15 training and communication from what</p> <p>16 we were able to develop from that</p> <p>17 review.</p> <p>18 Q. (BY MR. INNES) Okay. So you</p> <p>19 did review an enforcement action that led to</p> <p>20 you making a recommendation to a change at</p> <p>21 Walmart?</p> <p>22 MS. TABACCHI: Object to the</p> <p>23 form.</p> <p>24 THE WITNESS: We developed a</p> <p>25 red flags document that we</p>	<p>1 that situation.</p> <p>2 Q. Okay. And through your work in</p> <p>3 that group, you made a suggestion to Walmart,</p> <p>4 and that resulted in the generation of the</p> <p>5 red flag policies for pharmacists?</p> <p>6 MS. TABACCHI: Object to the</p> <p>7 form.</p> <p>8 THE WITNESS: The red flag</p> <p>9 training that we developed.</p> <p>10 MR. INNES: The red flag</p> <p>11 training. Okay.</p> <p>12 Q. (BY MR. INNES) And can you</p> <p>13 describe what that red flag training was?</p> <p>14 A. Initially, we -- we may have</p> <p>15 done a broadcast. I'm not sure. But there</p> <p>16 was a -- there was a reference document that</p> <p>17 was created that called out specific red</p> <p>18 flags as to patient, prescriber, and</p> <p>19 prescription, I believe are the three</p> <p>20 categories.</p> <p>21 Q. Have you heard that reference</p> <p>22 document described as a checklist at any</p> <p>23 point in time?</p> <p>24 MS. TABACCHI: Object to the</p> <p>25 form.</p>

Page 242	Page 244
<p>1 THE WITNESS: Not -- not that I 2 recall. I haven't always been as 3 close to how it was operationalized. 4 Q. (BY MR. INNES) Okay. And in 5 the -- anything else in addition to this red 6 flag reference document that was generated 7 out of a review of an enforcement action 8 during your time at the NACDS?</p> <p>9 MS. TABACCHI: Object to the 10 form.</p> <p>11 THE WITNESS: Not that I 12 specifically recall.</p> <p>13 Q. (BY MR. INNES) So we've talked 14 a lot about the NACDS. Is Walmart a member 15 of or affiliated with the National Council 16 For Prescription Drug Programs? You might 17 hear that as NCPDP?</p> <p>18 A. We have -- we have associates 19 that participate on NCPDP.</p> <p>20 Q. Do you know the names of those 21 associates that participate in NCPDP?</p> <p>22 A. The specific one that I know, 23 Darren Townzen, was -- I don't know what the 24 exact title was, but he -- he was the lead of 25 NCPDP. I don't know what the title was.</p>	<p>1 surprised if you were found to have been 2 listed as a donor in 2015 of the APhA?</p> <p>3 A. I don't recall that, a donor.</p> <p>4 Q. So before when I asked you if 5 Walmart was a member of the APhA, you said 6 they're considered a corporate supporter and 7 that's different than membership; is that 8 right?</p> <p>9 A. That's my understanding.</p> <p>10 Q. Okay. But you yourself are an 11 individual member of the APhA.</p> <p>12 A. Yes, I am a member of the APhA.</p> <p>13 Q. Does Walmart pay for your 14 membership in the APhA?</p> <p>15 A. Yes.</p> <p>16 Q. Are there other members of -- 17 other Walmart associates that are members of 18 the APhA?</p> <p>19 MS. TABACCHI: Object to the 20 form.</p> <p>21 THE WITNESS: There could be. 22 Yes.</p> <p>23 Q. (BY MR. INNES) Okay. So I 24 just want to clear that up. Do you know 25 other associates that are members -- other</p>
Page 243	Page 245
<p>1 Q. Do you know the purpose for 2 Walmart being a member of the NCPDP?</p> <p>3 MS. TABACCHI: Object to the 4 form.</p> <p>5 THE WITNESS: I think it's to 6 understand the NCPDP standard which is 7 part of the pharmacy business.</p> <p>8 Q. (BY MR. INNES) Is Walmart a 9 member affiliated in any way with the 10 American Pharmacists Association?</p> <p>11 A. We, at the corporate level, 12 we're a -- we're considered a corporate 13 supporter. It's different than a membership 14 status.</p> <p>15 Q. Do you remember contributing a 16 paper to the APhA in or about 2016?</p> <p>17 A. Was it a resident research 18 poster at their annual meeting?</p> <p>19 Q. Do you not recall?</p> <p>20 A. I don't recall.</p> <p>21 Q. Okay. Have you yourself 22 personally donated to the APhA?</p> <p>23 A. I'm a member. I haven't 24 donated.</p> <p>25 Q. Okay. So would you be</p>	<p>1 Walmart associates that are members of the 2 APhA?</p> <p>3 A. Yes.</p> <p>4 Q. Do any of those members hold 5 leadership positions in the APhA?</p> <p>6 MS. TABACCHI: Object to the 7 form.</p> <p>8 THE WITNESS: The only person 9 that I'm aware of that I can recall is 10 Kevin Barton was a member of the New 11 Practitioner Network. He may have -- 12 he may have led the New Practitioner 13 Network. I don't think he leads it 14 today.</p> <p>15 Q. (BY MR. INNES) How long have 16 you yourself been a member of the APhA?</p> <p>17 A. I mean, I've been a member over 18 my career. It hasn't been continuous. 19 I -- I am sure I have 20 continuously been a member since 2013, 21 because my job duties, I'll say, require that 22 I am a member, based on my responsibility for 23 our residency program.</p> <p>24 Q. What's your residency program?</p> <p>25 MS. TABACCHI: Object to the</p>

Page 246	Page 248
<p>1 form.</p> <p>2 THE WITNESS: We have a -- we</p> <p>3 have PGY 1, Post Graduate Year 1</p> <p>4 Community Pharmacy Resident Program,</p> <p>5 and our residents present at the</p> <p>6 annual meeting. It's part of the</p> <p>7 requirement of their residency. So as</p> <p>8 their direct preceptor, I'm a member</p> <p>9 of the organization.</p> <p>10 Q. (BY MR. INNES) And you</p> <p>11 received a standing ovation once, I think;</p> <p>12 correct? At a meeting?</p> <p>13 A. That wasn't at APhA.</p> <p>14 Q. Oh, that wasn't at APhA?</p> <p>15 A. I don't think so. I've spoken</p> <p>16 at APhA before, but I don't think that was</p> <p>17 the ...</p> <p>18 Q. Does the APhA hold regular</p> <p>19 meetings?</p> <p>20 A. They hold an annual meeting.</p> <p>21 There are -- there are work groups that --</p> <p>22 that meet from time to time if you're a</p> <p>23 member of that work group, but my involvement</p> <p>24 or knowledge of how often they meet is</p> <p>25 limited.</p>	<p>1 pharmaceutical manufacturers that are members</p> <p>2 of the APhA?</p> <p>3 A. I don't know their membership</p> <p>4 status.</p> <p>5 Q. Are you aware -- were you aware</p> <p>6 of any pharmaceutical manufacturers ever</p> <p>7 being members of the APhA?</p> <p>8 A. I think it's -- I think it's</p> <p>9 possible. I know that they -- there are a</p> <p>10 lot of manufacturers that exhibit at the</p> <p>11 annual meeting that APhA holds.</p> <p>12 Q. In addition to Walmart's</p> <p>13 partnership with the APhA, the pain forum,</p> <p>14 does Walmart partner with the APhA in</p> <p>15 anything else?</p> <p>16 MS. TABACCHI: Object to the</p> <p>17 form.</p> <p>18 THE WITNESS: We conducted</p> <p>19 training. I can't remember the name.</p> <p>20 We sponsored leadership</p> <p>21 development training for students.</p> <p>22 At -- it was a leadership development</p> <p>23 series for APhA student members.</p> <p>24 Q. (BY MR. INNES) What sort of</p> <p>25 development training was that?</p>
<p>1 Q. Do you hold any leadership</p> <p>2 positions at APhA?</p> <p>3 A. No.</p> <p>4 Q. Have you held any leadership</p> <p>5 positions in APhA?</p> <p>6 A. No.</p> <p>7 Q. Are you familiar with APhA's</p> <p>8 partnership with Walmart regarding opioid</p> <p>9 training?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Can you describe what</p> <p>12 that is?</p> <p>13 A. We worked with APhA to develop</p> <p>14 what we referred to as the Pain Management</p> <p>15 Forum, which was six and a half hours of</p> <p>16 continuing education for our pharmacist</p> <p>17 related to opioid-related issues.</p> <p>18 Q. Okay. And when did that Pain</p> <p>19 Management Forum first begin?</p> <p>20 A. We -- it was presented live in</p> <p>21 June of 2018. And starting in July of 2018,</p> <p>22 the recorded session was a requirement for</p> <p>23 all of our pharmacists to complete. The</p> <p>24 deadline was before August 31st of 2018.</p> <p>25 Q. Are you aware of any</p>	<p>1 A. (BY MR. INNES) So the way that</p> <p>2 it was delivered, at the annual meeting, a</p> <p>3 member of Walmart's leadership would do a</p> <p>4 leadership presentation to students that were</p> <p>5 in attendance at the annual meeting. And the</p> <p>6 students received some type of credit for</p> <p>7 attending that session.</p> <p>8 I don't know the whole workings</p> <p>9 of the program.</p> <p>10 Q. That program was or was not</p> <p>11 related to opioids?</p> <p>12 A. No, it was a leadership</p> <p>13 development topic.</p> <p>14 And then just to be clear,</p> <p>15 Walmart leadership has met with APhA at the</p> <p>16 APhA headquarters on occasion to -- just to</p> <p>17 talk about industry -- kind of industry</p> <p>18 trends, practice-related issues.</p> <p>19 And on one occasion, the</p> <p>20 leadership of APhA came to Bentonville and</p> <p>21 met. It was -- we met with them twice, I</p> <p>22 think, at their corporate office -- or at</p> <p>23 their headquarters in DC, and they came to</p> <p>24 Bentonville for one meeting.</p> <p>25 MS. TABACCHI: When we can.</p>

Page 250	Page 252
<p>1 MR. INNES: Are you done with 2 that answer?</p> <p>3 THE WITNESS: Yes.</p> <p>4 MR. INNES: Okay. Let's go off 5 the record and take a quick break.</p> <p>6 THE VIDEOGRAPHER: 3:11. We 7 are off the video record.</p> <p>8 (Recess taken, 3:11 p.m. to 9 3:33 p.m.)</p> <p>10 THE VIDEOGRAPHER: 3:33. We 11 are on the video record.</p> <p>12 MR. INNES: Okay. Hi, 13 Ms. Hiland. Welcome back.</p> <p>14 Before we begin again with our 15 conversation, we -- earlier in the 16 day, we identified on the record, we 17 introduced plaintiffs' -- or 18 introduced Exhibit 3. That was 19 identified as a potentially needed for 20 clawback due to attorney-client 21 privilege.</p> <p>22 We held that exhibit back to 23 allow defense counsel to make the 24 proper inquiries.</p> <p>25 It's been determined that they</p>	<p>1 Q. So are you -- are you or 2 Walmart a member of the National Association 3 of Boards of Pharmacy?</p> <p>4 A. No.</p> <p>5 Q. Okay. So you personally are 6 not a member of -- I'll refer to it as NABP; 7 is that correct?</p> <p>8 A. Correct.</p> <p>9 Q. Is Walmart a member of the 10 NABP?</p> <p>11 A. No.</p> <p>12 Q. Does Walmart participate in the 13 activities of the NAPB through any other 14 trade organization? For example, the NACDS?</p> <p>15 MS. TABACCHI: Object to the 16 form.</p> <p>17 THE WITNESS: There are times 18 when there will be joint meetings of 19 NAPB and NACDS.</p> <p>20 Q. (BY MR. INNES) Do any of those 21 joint meetings that come to mind have 22 anything to do with opioids?</p> <p>23 A. I believe there have been 24 meetings in the past between NABP and NACDS 25 related to opioids.</p>
<p>1 desire to claw it back. We have not 2 had a discussion about what the 3 particulars are of that privilege, but 4 we have agreed to pull it from the 5 record now.</p> <p>6 And we will receive a letter, 7 hopefully by Monday, articulating the 8 parameters of that, and we will go 9 from there.</p> <p>10 But as it stands, Exhibit 3 is 11 no longer a part of this deposition 12 record.</p> <p>13 We would hold this deposition 14 open to the extent that the privilege 15 is not proper, and we'd like to 16 question Ms. Hiland about the contents 17 of the same.</p> <p>18 MS. TABACCHI: I don't need to 19 say any more at this point. Thank you 20 for returning the document to us, and 21 we will send you a letter next week.</p> <p>22 MR. INNES: Okay. Great.</p> <p>23 Q. (BY MR. INNES) Ready to 24 continue?</p> <p>25 A. Yes.</p>	<p>1 Q. In which Walmart participated?</p> <p>2 A. I don't believe we 3 participated. I don't believe we were aware 4 of the meeting at the time that I'm thinking 5 of.</p> <p>6 Q. And what meeting are you 7 thinking of?</p> <p>8 A. I think there was a meeting 9 that predated the work of the operations, the 10 DEA work group committee, that Walmart did 11 not participate in.</p> <p>12 Q. And how did you come to know 13 about that particular meeting?</p> <p>14 A. If I remember correctly, it 15 would have been through NACDS reporting that 16 the meeting had occurred.</p> <p>17 Q. And how would you receive such 18 a report?</p> <p>19 MS. TABACCHI: Object to the 20 form.</p> <p>21 THE WITNESS: Either at the 22 policy council or in the work group.</p> <p>23 Q. (BY MR. INNES) Did you ever 24 receive summaries by email of such meetings?</p> <p>25 MS. TABACCHI: Object to the</p>

Page 254	Page 256
<p>1 form.</p> <p>2 THE WITNESS: Possibly. I may</p> <p>3 have.</p> <p>4 Q. (BY MR. INNES) Do you think</p> <p>5 you may have received one for this particular</p> <p>6 meeting?</p> <p>7 MS. TABACCHI: Object to the</p> <p>8 form.</p> <p>9 THE WITNESS: It's possible</p> <p>10 that I did.</p> <p>11 I'm not sure, but it's possible</p> <p>12 that I did.</p> <p>13 I think we inquired about -- we</p> <p>14 wanted to know what happened in the</p> <p>15 meeting, so it's possible.</p> <p>16 Q. (BY MR. INNES) "We," Walmart --</p> <p>17 A. "We" Walmart.</p> <p>18 Q. -- inquired.</p> <p>19 And if it came by email, would</p> <p>20 you still have that email, do you believe?</p> <p>21 MS. TABACCHI: Object to the</p> <p>22 form.</p> <p>23 THE WITNESS: I believe so.</p> <p>24 Q. (BY MR. INNES) You're not in</p> <p>25 the regular practice of deleting those kinds</p>	<p>1 THE WITNESS: Not that I'm</p> <p>2 aware.</p> <p>3 Q. (BY MR. INNES) Were they</p> <p>4 related to dispensing of opioids?</p> <p>5 A. Not that I specifically recall.</p> <p>6 Q. Were they related to Schedule</p> <p>7 II narcotics in any way?</p> <p>8 MS. TABACCHI: Object to the</p> <p>9 form.</p> <p>10 THE WITNESS: I just don't</p> <p>11 recall.</p> <p>12 Q. (BY MR. INNES) Are you aware</p> <p>13 of any other organizations that Walmart is a</p> <p>14 member of that would relate to opioids?</p> <p>15 MS. TABACCHI: Object to the</p> <p>16 form.</p> <p>17 THE WITNESS: Not that I can</p> <p>18 think of.</p> <p>19 Q. (BY MR. INNES) If you wanted</p> <p>20 to determine whether or not Walmart was a</p> <p>21 member of any other associations that related</p> <p>22 to opioids, how would you go about finding</p> <p>23 that out?</p> <p>24 A. I think I would know, because</p> <p>25 the membership dues has come from my budget</p>
Page 255	Page 257
<p>1 of emails, are you?</p> <p>2 MS. TABACCHI: Object to the</p> <p>3 form.</p> <p>4 THE WITNESS: No.</p> <p>5 Q. (BY MR. INNES) Are you a</p> <p>6 member of the National Community Pharmacists</p> <p>7 Association, otherwise known as NCPA?</p> <p>8 A. No.</p> <p>9 Q. Is Walmart a member of the</p> <p>10 National Community Pharmacists Association?</p> <p>11 A. No.</p> <p>12 Q. Does Walmart participate in any</p> <p>13 way with the National Community Pharmacists</p> <p>14 Association through any other group such as</p> <p>15 the NACDS?</p> <p>16 MS. TABACCHI: Object to the</p> <p>17 form.</p> <p>18 THE WITNESS: There have been</p> <p>19 joint initiatives between NACDS and</p> <p>20 NCPA.</p> <p>21 Q. (BY MR. INNES) Were those</p> <p>22 joint initiatives related to the distribution</p> <p>23 of opioids?</p> <p>24 MS. TABACCHI: Object to the</p> <p>25 form.</p>	<p>1 generally.</p> <p>2 So I'm just not -- I'm just not</p> <p>3 recall --</p> <p>4 I mean, I don't think there are</p> <p>5 others. The only other membership dues that</p> <p>6 I know is the Pharmacy Quality Alliance. But</p> <p>7 I don't think of that as an opioid-related</p> <p>8 organization.</p> <p>9 Q. What is the Pharmacy Quality</p> <p>10 Alliance?</p> <p>11 A. It's the organization that has</p> <p>12 set quality metrics related to Medicare</p> <p>13 Part D prescription programs.</p> <p>14 Q. Okay. And you said that -- I</p> <p>15 believe -- let's see -- "Membership dues come</p> <p>16 from my budget generally."</p> <p>17 What are you referring to when</p> <p>18 you say "my budget"?</p> <p>19 A. My department has a budget</p> <p>20 through the budget cycle that I mentioned</p> <p>21 earlier. I apply for membership dues, for</p> <p>22 example, for PQA. That comes out of my</p> <p>23 budget.</p> <p>24 Q. Okay. Are there line items</p> <p>25 within your budget for particular</p>

Page 258	Page 260
<p>1 memberships?</p> <p>2 A. Specifically for PQA, there is.</p> <p>3 Q. How about for NACDS?</p> <p>4 A. That is not in my budget.</p> <p>5 That's not in my budget.</p> <p>6 Q. Sitting here today, do you</p> <p>7 recall what memberships are in your budget</p> <p>8 that would relate to -- or have dealings with</p> <p>9 opioids or Schedule IIs?</p> <p>10 MS. TABACCHI: Object to the</p> <p>11 form.</p> <p>12 THE WITNESS: None that I'm</p> <p>13 aware of.</p> <p>14 Q. (BY MR. INNES) Were you ever</p> <p>15 asked to keep leadership engaged on issues</p> <p>16 related to opioid dispensing?</p> <p>17 Do you recall that?</p> <p>18 MS. TABACCHI: Object to the</p> <p>19 form.</p> <p>20 THE WITNESS: Can you repeat</p> <p>21 the question?</p> <p>22 Q. (BY MR. INNES) Do you know</p> <p>23 what? I can probably speed this up if I just</p> <p>24 provide you with a document.</p> <p>25 And what I'll tell you is it's</p>	<p>1 the document, but this is the only thing I'm</p> <p>2 going to ask you about.</p> <p>3 [Document review.]</p> <p>4 THE WITNESS: I've reviewed</p> <p>5 this page, but I haven't reviewed</p> <p>6 anything else in the document.</p> <p>7 Q. (BY MR. INNES) If we do spill</p> <p>8 into other pages, I'll give you the</p> <p>9 opportunity to review that.</p> <p>10 So this is an email from JoAnn</p> <p>11 Stevens to a litany of people. You're</p> <p>12 included on the list. And it is a "Health</p> <p>13 and wellness compliance oversight materials</p> <p>14 December 14th, 2016, 2:00 to 4:00 p.m.,</p> <p>15 Soderquist Hall Conference Room."</p> <p>16 Do you recall receiving this</p> <p>17 email?</p> <p>18 A. I don't recall, but since I'm</p> <p>19 on here, I don't dispute that I received it.</p> <p>20 Q. Okay. Did you regularly</p> <p>21 receive emails in advance of the health and</p> <p>22 wellness compliance oversight meetings?</p> <p>23 MS. TABACCHI: Object to the</p> <p>24 form.</p> <p>25 THE WITNESS: I wasn't a member</p>
<p style="text-align: center;">Page 259</p> <p>1 a big document. We don't need to go through</p> <p>2 much of it all. I'll direct you right to the</p> <p>3 page.</p> <p>4 Feel free to review the entire</p> <p>5 document if you'd like, but I can -- I'm</p> <p>6 going to direct you to page 4. I'll give you</p> <p>7 the Bates when I hand it to you.</p> <p>8 This is Exhibit 7.</p> <p>9 (Whereupon, Deposition Exhibit</p> <p>10 Walmart Hiland 7, 12-13-16 email from</p> <p>11 JoAnn Stevens. Subj: H&W Compliance</p> <p>12 Oversight Meeting Materials - December</p> <p>13 14-2016 2:00-4:00pm, Soderquist Hall</p> <p>14 Conference Room. WMT_MDL_</p> <p>15 000046442-46513, was marked for</p> <p>16 identification.)</p> <p>17 Q. (BY MR. INNES) So for the</p> <p>18 record, this is a Walmart document Bates</p> <p>19 No. 46442, going all the way to 46513.</p> <p>20 As promised, Ms. Hiland, I'm</p> <p>21 going to direct you to 46445, and in</p> <p>22 particular you'll see in the middle of the</p> <p>23 page is a bullet in bold italics that says</p> <p>24 "Opioid dispensing."</p> <p>25 And again, feel free to review</p>	<p style="text-align: center;">Page 261</p> <p>1 of --</p> <p>2 And so I only received it if I</p> <p>3 had some topic that pertained to the</p> <p>4 agenda.</p> <p>5 Q. (BY MR. INNES) Okay. So</p> <p>6 because you received this, it's likely that</p> <p>7 you had a topic that pertained to the agenda;</p> <p>8 is that right?</p> <p>9 A. That's correct.</p> <p>10 Q. So if we move forward to that</p> <p>11 page I asked you to review, 46445, again, the</p> <p>12 middle of the page, Opioid dispensing. The</p> <p>13 final -- the last full sentence of that</p> <p>14 paragraph says, "Mr. Beahm followed up with a</p> <p>15 request for Ms. Hiland to continue to keep</p> <p>16 Walmart and Sam's Club leadership engaged on</p> <p>17 the decisions being made."</p> <p>18 Do you remember that request?</p> <p>19 A. I don't specifically remember</p> <p>20 it.</p> <p>21 Q. Did you inform Walmart and</p> <p>22 Sam's leadership regarding decisions being</p> <p>23 made related to opioid dispensing?</p> <p>24 MS. TABACCHI: Object to the</p> <p>25 form. If you could, read the whole</p>

Page 262	Page 264
<p>1 bullet, please, for complete context. 2 I think that would be more accurate. 3 Q. (BY MR. INNES) Well, the 4 entire document is in the record, but I can 5 read it.</p> <p>6 "Mr. Langman requested that 7 Susanne Hiland, Senior Director of Patient 8 Safety and Quality, and Erica Rochelle, 9 Director of Billing Compliance, respectively 10 provide additional context on the topic of 11 standing orders for naloxone and 12 corresponding billing changes. Mr. Beahm 13 followed up with a request for Ms. Hiland to 14 continue to keep Walmart and Sam's Club 15 leadership engaged on decisions being made."</p> <p>16 Did you in fact keep leadership 17 engaged on decisions being made with regards 18 to that topic?</p> <p>19 MS. TABACCHI: Object to the 20 form.</p> <p>21 THE WITNESS: So the topic that 22 I did update leadership on was 23 standing orders for naloxone.</p> <p>24 Q. (BY MR. INNES) And who is 25 leadership?</p>	<p>1 Is it -- are you looking at the 2 bottom right-hand page, it says 46443? 3 A. Yes. 4 Q. Is there -- okay. 5 I'm sorry, you can continue 6 your answer. 7 A. So these -- this would be 8 Paul Beahm, as listed here. 9 Jill Turner-Mitchell. 10 David Reitnauer, and George Riedl. 11 Those are the -- those are who 12 I would think of as leader -- Walmart -- 13 When they say "Walmart and 14 Sam's Club leadership," that's who I'm 15 thinking of. 16 Q. Okay. 17 And -- strike that. 18 Were you ever asked to update 19 leadership regarding other topics -- topics 20 other than what's described here, related to 21 opioids? 22 MS. TABACCHI: Object to the 23 form. 24 THE WITNESS: I would have 25 provided -- and did provide updates to</p>
<p>1 A. Walmart and Sam's Club 2 leadership would be the senior level of 3 leaders on both sides of the organization. 4 So that had responsibility for 5 different pieces of the business. 6 Q. Okay. And who exactly are 7 senior level leaders? 8 A. That would be like the 9 president of health and wellness for Walmart, 10 and the -- I'm not sure what the title -- 11 there's vice president of operations on the 12 Sam's Club side. 13 Q. Okay. Do you remember the 14 persons that held those titles at that time? 15 A. Yes. So some of them are 16 listed here. Paul Beahm, senior vice 17 president of health and wellness operations, 18 Jill Turner-Mitchell. 19 Q. I'm sorry, for the record -- 20 A. I'm sorry. I'm on the second 21 page of the exhibit where it says "from," and 22 then it says "Committee members." 23 Q. Okay. And that's -- 24 A. This is the agenda page. 25 Q. I'm sorry to talk over you.</p>	<p>1 leadership on the progress that we 2 were making with the APhA training, 3 the development of that training and 4 the completion rates by our 5 pharmacists. 6 Q. (BY MR. INNES) Okay. Were you 7 ever asked to update leadership as to any 8 other programs related to opioids? 9 A. I don't recall any specific 10 requests. 11 Q. Okay. Slightly different 12 question. 13 Did you ever update leadership 14 as to any other programs related to opioids? 15 MS. TABACCHI: Object to the 16 form. 17 THE WITNESS: As we developed 18 what we refer to as our opioid 19 stewardship program, I had a -- I had 20 responsibility for the development of 21 the patient education brochure, and I 22 provided -- I provided updates and the 23 opportunity for -- for the leadership 24 to review the content format of 25 that -- what we refer to as the opioid</p>

Page 266	Page 268
<p>1 brochure that we provide to patients. 2 Q. (BY MR. INNES) And I notice 3 the Opioid Stewardship is listed under your 4 LinkedIn profile. I'm curious. Maybe we 5 should just talk about that now. What 6 exactly is the Opioid Stewardship program? 7 A. It's a collective set of 8 initiatives that Walmart has developed to 9 address different focuses around the opioid 10 issue.</p> <p>11 The naloxone standing order 12 progress by state was one of those 13 initiatives that I participated in. The 14 development of the brochure was another one 15 of those initiatives that I participated in. 16 Q. Okay. You used the term "it 17 was a collective of," and I missed the ... 18 A. Initiatives. 19 Q. Initiatives. Okay. 20 And you've listed one 21 initiative, I believe, the naloxone. 22 What other initiatives are in 23 the Opioid Stewardship collective? 24 A. Walmart instituted dispensing 25 limits for the initial fill of acute opioid</p>	<p>1 only -- originally the state of 2 New York, and I think today, to this 3 day, is the only state that requires 4 pharmacists to participate in the 5 naloxone program. 6 And then we just -- we -- we 7 followed with states. We did a 8 prioritization. Some of it had to do 9 with the granting authority from the 10 state. 11 Some programs were easier to 12 implement than others, based on the 13 way the regulation was written. 14 Q. (BY MR. INNES) Was it -- any 15 priority given to communities that were -- 16 based on communities' relevant suffering from 17 opioid crisis? 18 MS. TABACCHI: Object to the 19 form. 20 THE WITNESS: I believe I did, 21 from a -- from a -- I believe I did 22 look at some CDC information around 23 opioid usage to try to prioritize 24 where there was -- where states 25 allowed to try to prioritize how those</p>
<p>1 prescriptions. 2 We instituted counseling 3 specific to -- that included -- that 4 incorporated the patient leaflet. 5 Q. Okay. When was that 6 implemented? 7 A. This was -- the program was 8 officially launched in June of 2018, if I 9 remember correctly. 10 Q. When was the naloxone program 11 launched? 12 A. That occurred over a period of 13 time, depending -- not all states, as -- at 14 the time of this memo in 2016 allowed 15 pharmacists to dispense naloxone. And so the 16 update that Mr. Beahm was asking for was to 17 update leadership as states develop new 18 programs, and we were able to dispense in 19 those states. 20 Q. How did Walmart decide which 21 markets to engage its naloxone program in 22 originally? 23 MS. TABACCHI: Object to the 24 form. 25 THE WITNESS: Originally the</p>	<p>1 programs rolled out. 2 Q. (BY MR. INNES) What -- do you 3 recall what that CDC opioid data was 4 specifically? 5 A. I believe it was some 6 population. I don't recall specifically. I 7 know that I -- I know that I remember 8 searching and reviewing some information 9 available from CDC. 10 Q. Okay. And when you reviewed 11 that data, did you create a priority list of 12 communities that were in greater need for 13 naloxone than others? 14 MS. TABACCHI: Object to the 15 form. 16 THE WITNESS: I believe we 17 prioritized states based on -- on the 18 information that I had -- that I had 19 looked at. 20 Q. (BY MR. INNES) Okay. Did 21 you -- did you document that list anywhere? 22 A. I think in conversations to my 23 team as they -- as we were -- I think I did 24 document, "Here's the priority list of states 25 to focus on first."</p>

<p style="text-align: right;">Page 270</p> <p>1 Q. Now, I don't want to turn this 2 into a 50-state social studies example, but 3 can you give me the top five states you think 4 you recall -- or can you give me a list of 5 the states that you recall were in your high 6 priorities?</p> <p>7 A. I don't know. There's probably 8 a --</p> <p>9 What I remember is --</p> <p>10 I don't know. I don't know 11 that I recall. It's -- I'm sure there's a 12 list --</p> <p>13 Q. Right.</p> <p>14 A. -- of priorities and 15 communication from the team.</p> <p>16 Q. Okay. I'm sorry, I don't want 17 to seem like I'm harassing you, or -- 18 I'd love to present that 19 document to you. I don't believe we've seen 20 that document.</p> <p>21 MR. INNES: But to the extent 22 it does exist, we'd ask for its production. 23 We can send you all a letter on that.</p> <p>24 Q. (BY MR. INNES) Was it the CDC 25 mortality data that you looked at?</p>	<p style="text-align: right;">Page 272</p> <p>1 Q. (BY MR. INNES) Okay. So in 2 addition to CDC data, what else do you recall 3 looking at to form your priority list?</p> <p>4 A. I don't remember if I looked at 5 anything else.</p> <p>6 Q. Okay. So it very well could 7 have just been the CDC data that you looked 8 at?</p> <p>9 MS. TABACCHI: Object to the 10 form. Mischaracterizes testimony.</p> <p>11 THE WITNESS: I did also look 12 at states that allowed, because not 13 all states allowed pharmacists to 14 dispense. So that was the other 15 information that I think that I relied 16 on.</p> <p>17 Q. (BY MR. INNES) That's fair. I 18 forgot that you had said that.</p> <p>19 So you looked at where it was 20 viable for the program even to begin, and 21 then you also looked at a priority list of 22 states based on a review of CDC data.</p> <p>23 A. Yes.</p> <p>24 I also recall a request from 25 the New Mexico -- I believe the New Mexico</p>
<p style="text-align: right;">Page 271</p> <p>1 A. I don't recall specifically 2 what it was.</p> <p>3 I just don't recall.</p> <p>4 I know I looked at a lot of 5 information over time related to the CDC 6 dispensing guidelines, and I just --</p> <p>7 I don't recall exactly what I 8 looked at.</p> <p>9 Q. And when you say you "looked at 10 a lot of data over time," is that you looked 11 at a lot of data over time to create your 12 priority list of -- for the naloxone program?</p> <p>13 MS. TABACCHI: Object to the 14 form.</p> <p>15 THE WITNESS: Yes.</p> <p>16 Q. (BY MR. INNES) Okay. So over 17 how long a period of time do you think you 18 researched the -- your research entailed for 19 the priority list for the naloxone program?</p> <p>20 MS. TABACCHI: Same objection.</p> <p>21 THE WITNESS: So I think it at 22 least started sometime in 2016, and I 23 think we had the program with -- 24 within a year, I think we had the 25 program stood up.</p>	<p style="text-align: right;">Page 273</p> <p>1 Board of Pharmacy. So we looked at that 2 request to bring that program online.</p> <p>3 Q. So the New Mexico Board of 4 Pharmacy got wind of the program and 5 requested that Walmart enter that market?</p> <p>6 MS. TABACCHI: Object to the 7 form.</p> <p>8 THE WITNESS: They had a 9 program in place --</p> <p>10 I don't know that they got wind 11 of anything. They had a program in 12 place, and they were aware that 13 Walmart hadn't implemented it so they 14 reached out and asked us to implement 15 it.</p> <p>16 Q. (BY MR. INNES) So when -- 17 aside from the research as to what 18 jurisdictions would allow you to enter, did 19 you -- the other side did the research, the 20 research for prioritization of communities 21 that were affected, did you look at anything 22 other than the CDC data?</p> <p>23 A. Not that I recall.</p> <p>24 Q. Are there any other programs 25 that you reported on you related to the</p>

Page 274	Page 276
<p>1 distribution of dispensing of opioids to the 2 oversight committee?</p> <p>3 MS. TABACCHI: Object to the 4 form.</p> <p>5 THE WITNESS: No. 6 (Whereupon, Deposition Exhibit 7 Walmart Hiland 8, October 2017 email 8 chain. Subj: Press Release from 9 McKesson. WMT_MDL_000002203-2205, was 10 marked for identification.)</p> <p>11 Q. (BY MR. INNES) Once you've had 12 a chance to review it, let me know and we can 13 begin.</p> <p>14 For the record, it is a Walmart 15 document beginning 222 -- sorry, excuse me. 16 Walmart Document 2203 ending in 2205.</p> <p>17 [Document review.]</p> <p>18 THE WITNESS: I've reviewed the 19 document.</p> <p>20 Q. (BY MR. INNES) Ms. Hiland, do 21 you remember receiving this email?</p> <p>22 A. I vaguely remember it. I do.</p> <p>23 Q. Do you remember this one?</p> <p>24 A. I think I do.</p> <p>25 Q. Why do you remember seeing this</p>	<p>1 THE WITNESS: Yeah, I'm not 2 sure.</p> <p>3 Q. (BY MR. INNES) This is 4 October 24th, 2017. Remind me when Walmart 5 decided to exit the distribution -- 6 self-distribution of Schedule II narcotics.</p> <p>7 MS. TABACCHI: Object to the 8 form. Lack of foundation.</p> <p>9 THE WITNESS: I don't know when 10 the decision was made. We exited in 11 April 2018 for C-IIIs.</p> <p>12 Q. (BY MR. INNES) Okay. Was that 13 all C-IIIs?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And this -- this email 16 from Darren, or Mr. Townzen, went to you, 17 Bryan -- is it Richard?</p> <p>18 A. It is Richard.</p> <p>19 Q. -- and Betsy Hall Collins?</p> <p>20 A. Yes.</p> <p>21 Q. And who is -- is Mr. Richard a 22 Walmart employee?</p> <p>23 A. Yes.</p> <p>24 Q. And what's his role?</p> <p>25 A. He is senior director for</p>
<p>1 one?</p> <p>2 A. It was a little more recent.</p> <p>3 But I remember -- I remember Darren sending 4 this.</p> <p>5 Q. Okay.</p> <p>6 And who's Darren Townzen?</p> <p>7 A. Darren is director of health 8 and wellness billing reconciliation and 9 healthcare data.</p> <p>10 Q. Darren writes, "This also may 11 have something to do with their sense of 12 urgency."</p> <p>13 Do you recall, or can you 14 recall, who he's referring to by "their" 15 sense of urgency? Who is that pronoun for?</p> <p>16 A. That seems out of context. And 17 I don't know who he means by "They" in this 18 sense.</p> <p>19 I don't know. I don't recall 20 who "they" would be because I'm not relating 21 sense of urgency.</p> <p>22 Q. Mm-hmm. It's possible he could 23 be talking about McKesson, I guess?</p> <p>24 MS. TABACCHI: Object to the 25 form. Lack of foundation.</p>	<p>1 quality improvement.</p> <p>2 Q. Okay.</p> <p>3 And at this time, is he a peer 4 of yours or did he report to you?</p> <p>5 A. He reported to me.</p> <p>6 Q. And Betsy Hall Collins, was she 7 a Walmart employee?</p> <p>8 A. Yes.</p> <p>9 Q. And what was her role at the 10 time of this email?</p> <p>11 A. She was in government affairs.</p> <p>12 Q. Is it possible that the "their" 13 refers to the Walmart board?</p> <p>14 MS. TABACCHI: Object to the 15 form. Lack of foundation.</p> <p>16 THE WITNESS: I don't think so. 17 I would say no.</p> <p>18 Q. (BY MR. INNES) And why do you 19 say no to that?</p> <p>20 A. I don't know that the board was 21 involved in this NCPDP white paper.</p> <p>22 I don't have any connection 23 of -- of this NCPDP project with the board of 24 directors. I don't have a context for that.</p> <p>25 Q. What is the NCPDP white paper?</p>

Page 278	Page 280
<p>1 A. It's linked in reference in the 2 document, and it -- 3 So basically it was a standard 4 for a national prescription drug monitoring 5 program.</p> <p>6 Q. Okay. At the time of this 7 email, who were the stakeholders that you 8 were aware of with respect to the 9 implementation of such a program?</p> <p>10 MS. TABACCHI: Object to the 11 form.</p> <p>12 THE WITNESS: Can you clarify 13 Walmart stakeholders?</p> <p>14 Q. (BY MR. INNES) Sure, we can 15 start with Walmart.</p> <p>16 A. Darren was advocating. And he 17 came to -- he came to me. He involved Betsy, 18 because there was some advocacy that he was 19 involved with from his leadership role at 20 NCPDP in trying to establish this database.</p> <p>21 Bryan was involved because 22 there was -- as I recall, the proposal was to 23 mirror a program that McKesson had 24 established called a patient -- patient 25 safety network. And so because it was called</p>	<p>1 chain. Subj: "4th Thursday" H&W 2 Compliance Focus Areas deck. 3 WMT_MDL_000049545-49566, was marked 4 for identification.)</p> <p>5 MR. INNES: Ms. Hiland, I'm 6 handing you what's been marked as 7 Plaintiffs' Exhibit 9. This is 8 another fairly lengthy document. Feel 9 free to review the whole thing. I can 10 direct you to the two pages of this 11 document that I'd like to ask you 12 questions on.</p> <p>13 For the record it's a Walmart 14 document Bates No. 49545 ending in 15 49566. There are several native 16 attachments that we have produced in 17 native format.</p> <p>18 I am particularly interested in 19 the middle of the first page and what 20 I believe is a corresponding entry at 21 49564 which is towards the end of the 22 document.</p> <p>23 THE WITNESS: Can you repeat, 24 49564?</p> <p>25 MR. INNES: That's right.</p>
Page 279	Page 281
<p>1 patient safety network, Bryan was involved.</p> <p>2 Q. Okay. Were there stakeholders 3 outside of Walmart?</p> <p>4 MS. TABACCHI: Object to the 5 form.</p> <p>6 THE WITNESS: So I believe 7 potentially the folks listed here, 8 there were some discussions about a 9 working group. I don't know that it 10 ever formed, so I don't know exactly 11 who the stakeholders might have been.</p> <p>12 Q. (BY MR. INNES) Okay. Bottom 13 line is you're not sure who the "their" 14 refers to in this sentence?</p> <p>15 A. Correct.</p> <p>16 Q. Could it have been the members 17 of the controlled substances panel? Advisory 18 panel?</p> <p>19 MS. TABACCHI: Object to the 20 form. Asked and answered. Lack of 21 foundation.</p> <p>22 THE WITNESS: Yeah, I don't 23 think in this context.</p> <p>24 (Whereupon, Deposition Exhibit 25 Walmart Hiland 9, May 2015 email</p>	<p>1 THE WITNESS: Thank you. 2 [Document review.]</p> <p>3 THE WITNESS: Okay.</p> <p>4 Q. (BY MR. INNES) Okay. So 5 you'll see in the middle of the page -- well, 6 strike that.</p> <p>7 This email from Maria Smith to 8 a bunch of folks.</p> <p>9 You're copied towards the 10 bottom of that "To" line. It's the subject 11 line "For Thursday H and W compliance focus 12 areas deck."</p> <p>13 Are you familiar with the 14 fourth Tuesday? Is that a particular 15 meeting? What is that?</p> <p>16 MS. TABACCHI: Object to the 17 form.</p> <p>18 THE WITNESS: 4th Thursday was 19 a -- was a meeting that occurred on 20 the fourth Thursday of the month.</p> <p>21 Q. (BY MR. INNES) And at that -- 22 did you attend all of those meetings? Is 23 that a --</p> <p>24 A. I -- not all of those. 25 Depending on what my schedule would have</p>

<p>1 been. 2 Q. You'll see here in the middle 3 of this cover email, it says, "Board of 4 Directors objectives." 5 Do you see that? 6 A. Yes. 7 Q. Okay. And under that it says 8 "Controlled substances: Suspicious order 9 monitoring (Miranda Johnson)." 10 Do you see that? 11 A. Yes. 12 Q. What does "the board of 13 directors" refer to? 14 MS. TABACCHI: Object to the 15 form. Lack of foundation. 16 THE WITNESS: It would be the 17 Walmart board of directors. 18 Q. (BY MR. INNES) And that -- 19 were -- okay. Now let's go to that other 20 page I flagged for you, 49564. 21 And this says, "Board Objective 22 18." 23 It's a little difficult to 24 read. The font is a little small. 25 But the objective says, "In the</p>	<p>Page 282</p> <p>1 THE WITNESS: I -- no. I don't 2 know. 3 Q. (BY MR. INNES) Did you, 4 yourself, or anyone in your department, under 5 your -- strike that. 6 Did you or any of your direct 7 reports carry out board of directors 8 objectives related to Schedule IIs? 9 MS. TABACCHI: Object to the 10 form. 11 THE WITNESS: Can you orient me 12 to -- in this time frame? 13 MR. INNES: Any time frame. 14 THE WITNESS: So I didn't 15 have -- I was in the compliance 16 department, so the board of directors 17 from a compliance perspective would 18 have been focused on compliance 19 projects. 20 I'm not aware specifically 21 of -- I can't recall a project that we 22 would have worked on. It might have 23 been collaborative on something, but 24 not specifically. 25 Q. (BY MR. INNES) So is it your</p>
<p>1 U.S., implement controlled substance 2 suspicious-order monitoring enhancements 3 (which will include both software and 4 personal changes) in the U.S. distribution 5 centers." 6 Was it common practice for 7 folks to provide updates regarding board of 8 directors objectives at the 4th Thursday 9 meetings? 10 MS. TABACCHI: Object to the 11 form. 12 THE WITNESS: I believe if 13 there was a -- if there was a board 14 objective on a project, it would -- 15 that was part of that meeting, it 16 would be called out. 17 I don't know that it was common 18 practice. 19 Q. (BY MR. INNES) Are you aware 20 of any board of director objectives in 21 addition to -- that that described in the 22 board of objective 18 on 49564 related to 23 opioids? 24 MS. TABACCHI: Object to the 25 form.</p>	<p>Page 283</p> <p>1 testimony you may have collaborated with -- 2 on something with another group in Walmart to 3 execute on a board objective? 4 MS. TABACCHI: Object to the 5 form. 6 THE WITNESS: I mean, it's 7 possible, but I can't recall 8 anything -- any specific project. 9 Q. (BY MR. INNES) Okay. 10 Can you recall -- but you do 11 recall collaborating with other departments 12 regarding board of director objectives? 13 MS. TABACCHI: Object to the 14 form. 15 THE WITNESS: Not specific -- 16 not specifically. 17 I don't recall. 18 Q. (BY MR. INNES) Is it possible 19 that you collaborated with another group 20 regarding a board of directors objective 21 related to Schedule IIs? 22 MS. TABACCHI: Object to the 23 form. 24 THE WITNESS: It's possible. I 25 wouldn't always know what a board</p>

<p style="text-align: right;">Page 286</p> <p>1 of -- what was a board of directors 2 objective. 3 Q. (BY MR. INNES) How were board 4 of director objectives usually communicated 5 to someone in your position? 6 MS. TABACCHI: Object to the 7 form. 8 THE WITNESS: I don't know that 9 they are. If I'm in a meeting and 10 it's called out, I would become aware. 11 Otherwise they're not generally 12 communicated with me. I haven't had 13 occasion for that to come to me. 14 Q. (BY MR. INNES) But as we've 15 noted on 49545, this would be an example of a 16 communication that you would be aware of, of 17 a -- regarding a board of director objective. 18 Is that right? 19 MS. TABACCHI: Object to the 20 form. 21 THE WITNESS: Yes. 22 Q. (BY MR. INNES) And you said -- 23 I believe your testimony was it wasn't 24 necessarily commonplace for the board of 25 directors objectives to be relayed during a</p>	<p style="text-align: right;">Page 288</p> <p>1 statement that it would take a fairly 2 important project such as this one for a 3 board to inject themselves into a 4th 4 Thursday meeting? 5 MS. TABACCHI: Object to the 6 form. Lack of foundation. 7 THE WITNESS: I don't know how 8 board objectives were determined. 9 Q. (BY MR. INNES) You don't know 10 how board objectives related to opioids were 11 determined? 12 A. No. 13 Q. How would we determine how 14 board objectives related to opioids were 15 determined? 16 MS. TABACCHI: Object to the 17 form. 18 THE WITNESS: I don't know, 19 because I don't know who makes those 20 determinations. 21 Q. (BY MR. INNES) You would 22 presume the board would make those 23 determinations, I suppose; right? 24 MS. TABACCHI: Object to the 25 form. Lack of foundation.</p>
<p style="text-align: right;">Page 287</p> <p>1 4th Thursday meeting; is that right? 2 MS. TABACCHI: Object to the 3 form. 4 THE WITNESS: I think what was 5 uncommon was that we had -- 6 No. It wasn't common. 7 Q. (BY MR. INNES) So you find it 8 to be unusual that the board of directors 9 objective was being communicated in a 4th 10 Thursday meeting? 11 MS. TABACCHI: Object to the 12 form. 13 THE WITNESS: I mean, I don't 14 have an opinion about unusual or -- 15 I think it was a report that 16 was tied to this project. 17 Q. (BY MR. INNES) This is a 18 pretty important product; right? This is a 19 controlled substances Suspicious Order 20 Monitoring Program? 21 MS. TABACCHI: Object to the 22 form. 23 THE WITNESS: I believe this is 24 an important project. 25 Q. (BY MR. INNES) Is it a fair</p>	<p style="text-align: right;">Page 289</p> <p>1 THE WITNESS: Yeah, I'm not 2 presuming. I don't know. 3 (Whereupon, Deposition Exhibit 4 Walmart Hiland 10, December 2017 email 5 chain. Subj: RE Industry Letter. 6 WMT_MDL_000032595-32599, was marked 7 for identification.) 8 Q. (BY MR. INNES) Ms. Hiland, 9 you've just been handed what's been marked as 10 Plaintiffs' Exhibit 10. When you have a 11 chance to review the document, I can ask you 12 some questions. 13 In the meantime for the record 14 I will say that this is a Walmart document 15 beginning 32595 and ending 32599. 16 [Document review.] 17 THE WITNESS: I've reviewed it. 18 Q. (BY MR. INNES) Okay. So 19 you'll see this is an email from Betsy Hall 20 Collins to you, Susanne Hiland on 21 December 19th of 2017. And it attaches 22 pharmacy industry letter to President Trump 23 11-08-17.PDF. 24 The email chain begins with a 25 request you're making to Ms. Collins. Let's</p>

<p style="text-align: right;">Page 290</p> <p>1 just for the record, what's Ms. Collins's 2 title at the time of this email, December of 3 '17?</p> <p>4 A. She was director -- she was 5 with government affairs, but I think it was 6 referred to as global public policy, director 7 of global public policy.</p> <p>8 Q. And you asked, "Betsy, do you 9 have a copy of the letter Greg signed?"</p> <p>10 And who is the "Greg" you're 11 referring to there? Is that Greg Foran?</p> <p>12 A. Yes.</p> <p>13 Q. And how do you pronounce that 14 name? I'm sorry.</p> <p>15 A. I stumble too. I think it's 16 Foran.</p> <p>17 Q. Okay.</p> <p>18 And at the time of this letter, 19 Mr. Foran was the president and chief 20 executive officer of Walmart U.S.; is that 21 right?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And then your email 24 continues on. "Paul wants me to include it 25 in a meeting we have in the morning."</p>	<p style="text-align: right;">Page 292</p> <p>1 A. The Thursday compliance 2 meeting.</p> <p>3 Q. Okay. Do you -- did you draft 4 the attached letter to President Trump?</p> <p>5 A. No.</p> <p>6 Q. Do you know who did draft the 7 attached letter to President Trump?</p> <p>8 A. No.</p> <p>9 Q. Do you know if the text was 10 provided by NACDS?</p> <p>11 A. Not to my knowledge. I don't 12 remember if they were a party to this or not. 13 I don't think so.</p> <p>14 Q. And why don't you think so?</p> <p>15 A. Because I don't remember 16 hearing about it from any communication that 17 I was part of with NACDS. I think it would 18 have eventually come through NACDS if that 19 had been the case.</p> <p>20 Q. And in December of 2017, you 21 would have expected to receive such 22 communications from NACDS if it came from 23 NACDS; is that right?</p> <p>24 MS. TABACCHI: Object to the 25 form.</p>
<p style="text-align: right;">Page 291</p> <p>1 Who is the "Paul" you're 2 referring to here?</p> <p>3 A. That is Paul Beahm.</p> <p>4 Q. And what was Mr. Beahm's title 5 at that time?</p> <p>6 A. Senior vice president, health 7 and wellness operations, Walmart.</p> <p>8 Q. Do you recall the meeting that 9 you had planned in the morning?</p> <p>10 A. At -- I don't know specifically 11 what the meeting would have been.</p> <p>12 I'm trying to orient myself to 13 day of the week, if it was a Thursday 14 meeting. It doesn't sound like it was a 15 Thursday meeting.</p> <p>16 Q. It sounds like it might have 17 been a Wednesday meeting.</p> <p>18 A. It sounds like it was a 19 Wednesday meeting.</p> <p>20 I don't know specifically what 21 the meeting would have been.</p> <p>22 Q. Why, out of curiosity, if it 23 was a Thursday would that have jogged your 24 memory? Was there a particular meeting you 25 had with Mr. Beahm on Thursdays?</p>	<p style="text-align: right;">Page 293</p> <p>1 Q. (BY MR. INNES) You would have 2 been the person at Walmart to receive those 3 types of documents?</p> <p>4 MS. TABACCHI: Object to the 5 form.</p> <p>6 THE WITNESS: I think in my 7 position as participating in policy 8 council, it would have -- would have 9 been an attachment to a meeting or a 10 call, and I wasn't -- I didn't have it 11 from that --</p> <p>12 Q. (BY MR. INNES) Would it -- do 13 you think --</p> <p>14 A. -- source.</p> <p>15 Q. Would it have functioned 16 similar to the way it functioned with the 17 letter to Senator Harkin that we discussed 18 earlier today?</p> <p>19 MS. TABACCHI: Object to the 20 form.</p> <p>21 THE WITNESS: Can you clarify? 22 I'm --</p> <p>23 Q. (BY MR. INNES) Sure. The 24 letter that we discussed earlier to 25 Senator Harkin, you had said that that was</p>

<p style="text-align: right;">Page 294</p> <p>1 language that was received from NACDS that 2 you reviewed and forwarded on to government 3 relations. 4 Do you believe this is the type 5 of letter that would have -- that NACDS could 6 have provided language for? 7 MS. TABACCHI: Object to the 8 form. 9 THE WITNESS: I just -- I don't 10 have any indication that NACDS was 11 involved. 12 Q. (BY MR. INNES) Based on the 13 parties that are signatories to this letter, 14 does that give you any sense of who may have 15 drafted this letter? 16 MS. TABACCHI: Object to the 17 form. Lack of foundation. 18 THE WITNESS: No. 19 No. These are listed to me in 20 alphabetic order, so I don't know if 21 there's -- they're just parties to the 22 letter. I don't know. 23 Q. (BY MR. INNES) Did you have an 24 opportunity to speak with Mr. Foran prior to 25 this letter being sent?</p>	<p style="text-align: right;">Page 296</p> <p>1 tripled from 76 million in 1991 to 2 approximately 207 million in 2013. 3 "The U.S. accounts for 4 80 percent of the world's consumption of 5 opioid painkillers and 99 percent of the 6 hydrocodone. This remarkable volume is 7 severely harming consumer health, costing the 8 country more than \$78 billion annually in 9 associated costs and taking a tragic toll on 10 countless individuals and society as a 11 whole." 12 Do you agree with the sum and 13 substance of that paragraph? 14 MS. TABACCHI: Object to the 15 form. 16 THE WITNESS: I don't have any 17 reason to dispute these as being 18 accurate. 19 Q. (BY MR. INNES) Okay. What's 20 interesting to me is that this paragraph 21 discusses opioid prescriptions. It doesn't 22 discuss opioid distribution, does it? 23 A. Not -- no. 24 Q. And at this time, Walmart was 25 in the business of opioid distribution; isn't</p>
<p style="text-align: right;">Page 295</p> <p>1 MS. TABACCHI: Object to the 2 form. 3 THE WITNESS: No. 4 Q. (BY MR. INNES) Do you have 5 knowledge as to whether Mr. Foran read this 6 letter prior to it being sent? 7 MS. TABACCHI: Object to the 8 form. 9 THE WITNESS: I don't know 10 that. 11 Q. (BY MR. INNES) Do you know of 12 any letter sent to a prior administration 13 that were similar to this? 14 Strike that. 15 Do you know of any letters sent 16 to President Obama that were similar in 17 content to this exhibit? 18 MS. TABACCHI: Object to the 19 form. 20 THE WITNESS: No. 21 Q. (BY MR. INNES) The first 22 paragraph reads -- I can read it in total, 23 "By any measure, opioid abuse in the 24 United States has reached crisis proportions. 25 The number of opioid prescriptions has nearly</p>	<p style="text-align: right;">Page 297</p> <p>1 that right? 2 MS. TABACCHI: Object to the 3 form. 4 THE WITNESS: We were 5 distributing opioids in this time 6 period. 7 Q. (BY MR. INNES) Okay. It 8 doesn't discuss opioid dispensing, does it? 9 In that first paragraph? 10 MS. TABACCHI: Object to the 11 form. 12 THE WITNESS: It doesn't say 13 the word "dispensing." 14 Q. (BY MR. INNES) It's actually 15 limited to opioid descriptions; isn't that 16 right? 17 MS. TABACCHI: Object to the 18 form. 19 THE WITNESS: As a callout 20 specific to opioids, I see "opioid 21 prescriptions." 22 Q. (BY MR. INNES) Are you done? 23 A. Yes. 24 Q. So without a prescription, 25 there can be no dispensing; isn't that right?</p>

Page 298	Page 300
<p>1 A. Correct.</p> <p>2 Q. And without a prescription --</p> <p>3 And there can be no dispensing</p> <p>4 without a purchase by a pharmacy of a drug</p> <p>5 from a manufacturer; isn't that right?</p> <p>6 MS. TABACCHI: Object to the</p> <p>7 form.</p> <p>8 THE WITNESS: Can you restate</p> <p>9 it to make sure I follow?</p> <p>10 Q. (BY MR. INNES) An opioid can't</p> <p>11 be dispensed by a pharmacy unless it makes</p> <p>12 its way to a pharmacy; isn't that right?</p> <p>13 A. Correct.</p> <p>14 Q. And the way it's stocked on a</p> <p>15 shelf at a Walmart pharmacy is because</p> <p>16 Walmart, through its distribution channels,</p> <p>17 has placed it on that shelf; isn't that</p> <p>18 right?</p> <p>19 MS. TABACCHI: Object to the</p> <p>20 form.</p> <p>21 THE WITNESS: We</p> <p>22 self-distributed opioids and also</p> <p>23 used.</p> <p>24 Q. (BY MR. INNES) And Walmart</p> <p>25 purchased those opioids that it</p>	<p>1 A. I don't know the specifics, but</p> <p>2 it's a -- an -- I mean, I have this term in</p> <p>3 my head, a joint venture between Walmart and</p> <p>4 McKesson.</p> <p>5 Q. And what's your understanding</p> <p>6 of what that joint venture was?</p> <p>7 A. It's for the purpose of</p> <p>8 purchasing medications.</p> <p>9 Q. Purchasing what kinds of</p> <p>10 medications?</p> <p>11 A. I don't know what the -- I</p> <p>12 don't know the workings of ClarusOne.</p> <p>13 Q. Does Walmart purchase drugs</p> <p>14 from ClarusOne?</p> <p>15 MS. TABACCHI: Object to the</p> <p>16 form.</p> <p>17 THE WITNESS: I don't know what</p> <p>18 the contractual arrangement is.</p> <p>19 Q. (BY MR. INNES) That wasn't my</p> <p>20 question. My question was, does Walmart</p> <p>21 purchase drugs from ClarusOne?</p> <p>22 MS. TABACCHI: Object to the</p> <p>23 form. Lack of foundation.</p> <p>24 THE WITNESS: I don't know.</p> <p>25 Q. (BY MR. INNES) Does -- do you</p>
<p style="text-align: center;">Page 299</p> <p>1 self-distributed from manufacturers; isn't</p> <p>2 that right?</p> <p>3 A. Yes.</p> <p>4 Q. So if we're articulating the</p> <p>5 entire problem here, why do you believe that</p> <p>6 Walmart sent a letter to President Trump</p> <p>7 where distributors and pharmacists are</p> <p>8 conspicuously absent?</p> <p>9 MS. TABACCHI: Object to the</p> <p>10 form. Lack of foundation.</p> <p>11 THE WITNESS: I'm sorry, who</p> <p>12 did you say was absent?</p> <p>13 Q. (BY MR. INNES) Distributors.</p> <p>14 Right? And pharmacists?</p> <p>15 MS. TABACCHI: Object to the</p> <p>16 form. Lack of foundation.</p> <p>17 Are you talking about one</p> <p>18 paragraph in the letter?</p> <p>19 THE WITNESS: The signatories</p> <p>20 are present. I don't know how it was</p> <p>21 decided to send the letter.</p> <p>22 Q. (BY MR. INNES) Who is</p> <p>23 ClarusOne? Are you familiar with that term?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. What is ClarusOne?</p>	<p style="text-align: center;">Page 301</p> <p>1 know if Walmart purchases Schedule II</p> <p>2 narcotics from ClarusOne?</p> <p>3 MS. TABACCHI: Object to the</p> <p>4 form. Lack of foundation.</p> <p>5 THE WITNESS: I don't know.</p> <p>6 MR. INNES: Can we go off the</p> <p>7 record?</p> <p>8 THE VIDEOGRAPHER: 4:35. We</p> <p>9 are off the video record.</p> <p>10 (Recess taken, 4:35 p.m. to</p> <p>11 4:44 p.m.)</p> <p>12 THE VIDEOGRAPHER: 4:45. We</p> <p>13 are on the video record.</p> <p>14 Q. (BY MR. INNES) Okay,</p> <p>15 Ms. Hiland, we're back. We'll make one final</p> <p>16 push. I think we can be quick about this.</p> <p>17 When did you first learn that</p> <p>18 Walmart decided to exit the distribution of</p> <p>19 Schedule II narcotics?</p> <p>20 A. I don't recall specifically.</p> <p>21 It was sometime close to the -- it was</p> <p>22 sometime in early 2018, so close to when we</p> <p>23 actually stopped.</p> <p>24 Q. Okay. And how was that</p> <p>25 communicated to you?</p>

Page 302	Page 304
<p>1 A. I believe I was in a meeting. 2 I don't know the nature of the 3 meeting, but I believe it was communicated in 4 a meeting that an announcement was made. 5 Q. Do you recall who communicated 6 it during that meeting? 7 A. I think it was George Riedl. 8 Q. Okay. Following that meeting, 9 were you asked to sign a nondisclosure 10 agreement? 11 MS. TABACCHI: Object to the 12 form. 13 Q. (BY MR. INNES) Regarding the 14 information you learned at that meeting? 15 A. No. 16 Q. Have you ever signed a 17 nondisclosure agreement during your tenure at 18 Walmart? 19 A. Yes. 20 Q. And what was that in relation 21 to? 22 MS. TABACCHI: Object to the 23 form. 24 THE WITNESS: I sign them 25 regularly for new suppliers that we're</p>	<p>1 wasn't part of any of those 2 conversations. 3 MR. INNES: Okay. I have no 4 further questions. 5 Do you guys have any questions? 6 Anyone here? 7 MS. TABACCHI: We have no 8 questions for the witness. 9 MR. INNES: Okay. So I know 10 I've already made the record on this, 11 but I'll just seal it off that we 12 pulled back Exhibit 3. There was a 13 privilege issue. We'll hold it open 14 for that purpose. 15 We would also like to hold it 16 open because we believe there were 17 certain areas of documents -- and 18 we'll send you a letter on this as 19 well -- that we don't have production 20 of that are -- we believe would be 21 relevant and should have been produced 22 and we'd like to question Ms. Hiland 23 on. And we can -- we can put that in 24 a letter too as well. 25 MS. TABACCHI: We can agree to</p>
<p>1 talking to, to understand their 2 capabilities. 3 Q. (BY MR. INNES) Do you know who 4 made the decision to exit the Schedule II -- 5 the self-distribution of Schedule IIs? 6 A. I don't know specifically. 7 Q. Following that meeting where 8 you learned about the intention to exit that 9 business, did you ask any of your colleagues 10 why that decision was made? 11 A. No. Not that I recall. 12 Q. Do you believe that decision 13 was made for a business purpose? 14 MS. TABACCHI: Object to the 15 form. Lack of foundation. 16 THE WITNESS: I believe it 17 impacted the business, so I do -- I 18 think it was a decision made by the 19 business. 20 Q. (BY MR. INNES) Is it your 21 belief that the cost of regulatory compliance 22 was too great to self-distribute? 23 MS. TABACCHI: Object to the 24 form. Lack of foundation. 25 THE WITNESS: I don't know. I</p>	<p>1 disagree as to certain aspects of 2 that. But I appreciate your statement 3 for the record, and I think we're 4 concluded for today. 5 MR. INNES: Okay. 6 MS. TABACCHI: Thank you. 7 MR. INNES: Thank you. 8 THE VIDEOGRAPHER: 4:48. We 9 are off the video record. This 10 concludes the video deposition. 11 (Proceedings recessed at 12 4:48 p.m.) 13 --000--</p>

<p>1 CERTIFICATE 2 I, DEBRA A. DIBBLE, Registered 3 Diplomate Reporter, Certified Realtime 4 Reporter, Certified Realtime Captioner, 5 Certified Court Reporter and Notary Public, 6 do hereby certify that prior to the 7 commencement of the examination, SUSANNE 8 HILAND was duly sworn by me to testify to the 9 truth, the whole truth and nothing but the 10 truth.</p> <p>11 I DO FURTHER CERTIFY that the 12 foregoing is a verbatim transcript of the 13 testimony as taken stenographically by and 14 before me at the time, place and on the date 15 hereinbefore set forth, to the best of my 16 ability.</p> <p>17 I DO FURTHER CERTIFY that pursuant 18 to FRCP Rule 30, signature of the witness was 19 not requested by the witness or other party 20 before the conclusion of the deposition.</p> <p>21 I DO FURTHER CERTIFY that I am 22 neither a relative nor employee nor attorney 23 nor counsel of any of the parties to this 24 action, and that I am neither a relative nor 25 employee of such attorney or counsel, and 26 that I am not financially interested in the 27 action.</p> <p>28</p> <p>29</p> <p>30 DEBRA A. DIBBLE, RDR, CRR, CRC 31 NCRA Registered Diplomate Reporter 32 NCRA Certified Realtime Reporter 33 Certified Court Reporter</p> <p>34 Dated: 23 January 2019</p>	<p>Page 306</p> <p>1 ERRATA 2 PAGE LINE CHANGE 3 _____ 4 REASON: _____ 5 _____ 6 REASON: _____ 7 _____ 8 REASON: _____ 9 _____ 10 REASON: _____ 11 _____ 12 REASON: _____ 13 _____ 14 REASON: _____ 15 _____ 16 REASON: _____ 17 _____ 18 REASON: _____ 19 _____ 20 REASON: _____ 21 _____ 22 REASON: _____ 23 _____ 24 REASON: _____ 25</p> <p>Page 307</p> <p>1 INSTRUCTIONS TO WITNESS 2 3 Please read your deposition over 4 carefully and make any necessary corrections. 5 You should state the reason in the 6 appropriate space on the errata sheet for any 7 corrections that are made. 8 After doing so, please sign the 9 errata sheet and date it. 10 You are signing same subject to 11 the changes you have noted on the errata 12 sheet, which will be attached to your 13 deposition. 14 It is imperative that you return 15 the original errata sheet to the depositing 16 attorney within thirty (30) days of receipt 17 of the deposition transcript by you. If you 18 fail to do so, the deposition transcript may 19 be deemed to be accurate and may be used in 20 court.</p> <p>Page 309</p> <p>1 ACKNOWLEDGMENT OF DEPONENT 2 3 4 I, SUSANNE HILAND, do hereby 5 certify that I have read the foregoing pages 6 and that the same is a correct transcription 7 of the answers given by me to the questions 8 therein propounded, except for the 9 corrections or changes in form or substance, 10 if any, noted in the attached 11 Errata Sheet. 12 13 14 15 SUSANNE HILAND DATE 16 Subscribed and sworn to before me this 17 _____ day of _____, 20 _____. 18 My commission expires: _____ 19 20 Notary Public 21 22 23 24 25</p>
--	---

Page 310